S. Hrg. 100-943

ARCHEOLOGICAL RESOURCES PROTECTION ACT AMENDMENTS AND MISCELLANEOUS FEDERAL LANDS BILLS

HEARING

BEFORE THE

SUBCOMMITTEE ON
PUBLIC LANDS, NATIONAL PARKS AND FORESTS

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

H.R. 4068
S. 1314
S. 1985
S. 2545
S. 2617
S. 2750
S. 2767

SEPTEMBER 14, 1988

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ARCHEOLOGICAL RESOURCES PROTECTION ACT AMENDMENTS AND MISCELLANEOUS FEDERAL LANDS BILLS

WEDNESDAY, SEPTEMBER 14, 1988

U.S. Senate,
Subcommittee on Public Lands,
National Parks and Forests,
Committee on Energy and Natural Resources,
Washington, DC.

The subcommittee met, pursuant to notice at 2 p.m., in room SD-366, Dirksen Senate Office Building, Hon. Jeff Bingaman presiding.

OPENING STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR FROM NEW MEXICO

Senator Bingaman. Why don't we bring the hearing to order. I believe Senator Domenici is on his way.

This is a hearing of the Subcommittee on Public Lands, National Parks and Forests. I want to thank Senator Bumpers, the Chairman, for scheduling the hearing.

We are going to receive testimony on seven different bills today, H.R. 4068, to amend the Archeological Resources Protection Act to strengthen the enforcement provisions of that act;

S. 1314 to amend the Archeological Resources Protection Act to prohibit attempted excavation, removal or defacing and to reduce the felony threshold value of illegally removed artifacts;

S. 1985 to improve the protection and management of archeological resources on federal land;

S. 2545 to redesignate Salinas National Monument in New Mexico;

S. 2617 to revise the boundary of Aztec Ruins National Monument;

S. 2750 to authorize a study of methods to commemorate the contributions of Georgia O'Keeffe; and

S. 2767 to authorize a study of the history and culture of the Warm Springs area of New Mexico.

The bills in some way or other all deal with the protection of our historical and cultural legacy. The legislation represents an effort to preserve the important events and sites of our past so that present and future generations will have the opportunity to appreciate and understand the history and culture.

The bills that particularly relate to New Mexico will further our efforts in the state to preserve a unique cultural legacy and expand our knowledge of history and events.

There are a great many individuals who have worked with us in preparation of some of these bills, and several of these individuals have asked to submit testimony for the record.

Tom Merlin, the state historic preservation officer for the state of New Mexico has testimony; Mark Michael, president of the Archeology Conservancy in Santa Fe, New Mexico; Cliff Green of the Aztec Main Street Association; Ray Richardson, Mayor of the city of Aztec, New Mexico; and Scott Jacobson, Chairman of the Old West Country in Southwestern New Mexico.

[The texts of the bills follow:]

II

100TH CONGRESS
2D SESSION

H.R. 4068

IN THE SENATE OF THE UNITED STATES

AUGUST 2 (legislative day, AUGUST 1), 1988

Received; read twice and referred to the Committee on Energy and Natural Resources

AN ACT

To amend the Archaeological Resources Protection Act of 1979 to strengthen the enforcement provisions of that Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO ARCHAEOLOGICAL RESOURCES PROTECTION ACT OF 1979.

(a) Section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa and following) is amended by striking out "which are of archaeological interest".

(b) Section 3(3) of such Act is amended by striking out the semicolon at the end thereof and substituting a period.

(c) Section 6(a) of such Act is amended by inserting after "deface" the following: ", or attempt to excavate, remove, damage, or otherwise alter or deface".

(d) Section 6(d) of such Act is amended by striking "$5,000" and inserting in lieu thereof "$500".

(e) Section 10 of such Act is amended by adding the following new subsection at the end thereof:

"(c) Each Federal land manager shall establish a program to increase public awareness of the significance of the archaeological resources located on public lands and Indian lands and the need to protect such resources. Each such land manager shall submit an annual report to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate regarding the actions taken under such program.".

Passed the House of Representatives July 26, 1988.

Attest: DONNALD K. ANDERSON,
Clerk.

II

100TH CONGRESS
1ST SESSION

S. 1314

To amend the Archeological Resources Protection Act of 1979 to prohibit attempted excavation, removal, or defacing, and to reduce the felony threshold value of illegally removed artifacts to $500.

IN THE SENATE OF THE UNITED STATES

JUNE 3, 1987

Mr. DOMENICI introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To amend the Archeological Resources Protection Act of 1979 to prohibit attempted excavation, removal, or defacing, and to reduce the felony threshold value of illegally removed artifacts to $500.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 6 of the Archeological Resources Protection Act of 1979 (Public Law 96-95; 16 U.S.C. 470ee(a)) is amended by inserting after "deface" the following: ", or attempt to excavate, remove, damage, or otherwise alter or deface,".

(b) The proviso of subsection (d) of section 6 (16 U.S.C. 470ee(d)) is amended by striking "$5,000" and inserting in lieu thereof "$500".

II

100TH CONGRESS
1ST SESSION

S. 1985

To improve the protection and management of archeological resources on federal land.

IN THE SENATE OF THE UNITED STATES

DECEMBER 22 (legislative day, DECEMBER 15), 1987

Mr. DOMENICI (for himself and Mr. BINGAMAN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To improve the protection and management of archeological resources on federal land.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Archeological Resources Protection Act of 1979 (Public Law 96–95; 16 U.S.C. 470ii) be amended to add the following new section after section 13:

"Sec. 14. The Secretaries of the Interior, Agriculture, and Defense and the Chairman of the Board of the Tennessee Valley Authority shall—

"(a) develop plans for surveying lands under their control to determine the nature and extent of archeological resources on those lands;

"(b) prepare a schedule for surveying lands that are likely to contain the most scientifically valuable archeological resources; and

"(c) develop documents for the reporting of suspected violations of this act and establish when and how those documents are to be completed by officers, employees, and agents of their respective agencies.".

II

100TH CONGRESS
2D SESSION

S. 2545

To redesignate Salinas National Monument in the State of New Mexico, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 21 (legislative day, JUNE 20), 1988

Mr. BINGAMAN (for himself and Mr. DOMENICI) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To redesignate Salinas National Monument in the State of New Mexico, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Salinas National Monument, as designated by section 601 of Public Law 96–550, relating to wilderness in New Mexico, is hereby redesignated as Salinas Pueblo Missions National Monument.

(b) Any reference in any record, map, or other document of the United States to Salinas National Monument shall hereafter be deemed to be a reference to Salinas Pueblo Missions National Monument.

II

100TH CONGRESS
2D SESSION

S. 2617

To revise the boundary of Aztec Ruins National Monument in the State of New Mexico, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 7, 1988

Mr. BINGAMAN (for himself and Mr. DOMENICI) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To revise the boundary of Aztec Ruins National Monument in the State of New Mexico, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVISION OF BOUNDARY.

The boundary of Aztec Ruins National Monument is hereby revised to include the area generally depicted on the map entitled "Aztec Ruins, Addition, Aztec Ruins National Monument," numbered , and dated . Such map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

SEC. 2. LAND ACQUISITION.

The Secretary of the Interior is authorized to acquire lands, interests in lands, and improvements thereon within the boundary of the national monument as amended by section 1 by donation, exchange, or purchase with donated or appropriated funds.

SEC. 3. ADMINISTRATION.

The Secretary of the Interior shall administer the Aztec Ruins National Monument in accordance with the provisions of law generally applicable to units of the National Park System including the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666).

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

II

100TH CONGRESS
2D SESSION

S. 2750

To authorize a study on methods to commemorate the nationally significant contributions of Georgia O'Keeffe.

IN THE SENATE OF THE UNITED STATES

AUGUST 11 (legislative day, AUGUST 10), 1988

Mr. DOMENICI introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To authorize a study on methods to commemorate the nationally significant contributions of Georgia O'Keeffe.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in recognition of the significant impact Georgia O'Keeffe had on the world of art, the Secretary of the Interior is authorized and directed to conduct a study of the most appropriate way to interpret these nationally significant contributions. The study shall include but not be limited to an evaluation of the feasibility of establishing a living landscape museum consisting of the scenes and physical features from which Georgia O'Keeffe drew much of her inspiration.

(b) The study shall be completed and transmitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within one year of the date on which funds are appropriated for the study.

SEC. 2. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

○

II

100TH CONGRESS
2D SESSION

S. 2767

To authorize a study of the history and culture of Warm Springs, New Mexico, in order to preserve its historic and cultural legacy for future generations.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 9 (legislative day, SEPTEMBER 7), 1988

Mr. BYRD (for Mr. Bingaman) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To authorize a study of the history and culture of Warm Springs, New Mexico, in order to preserve its historic and cultural legacy for future generations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Warm Springs Study Act of 1988".

SEC. 2. STUDY OF WARM SPRINGS CULTURE.

(a) IN GENERAL.—The Secretary of the Interior is authorized and directed to conduct a study of the culture that evolved around Warm Springs in Southwestern, New Mexico, to determine its significance in illustrating and commemorating American frontier military history and the development of American Indian policy.

(b) SPECIFICS OF STUDY.—The study shall include—

(1) an evaluation of the history of the people from the Warm Springs area and Victorio's War in relation to American frontier military history and the development of American Indian policy; and

(2) an evaluation of historic and prehistoric resources surrounding the Warm Springs at the headwaters of Canada de Alamosa and the potential for preservation and public use.

(c) COMPLETION OF STUDY.—The study shall be completed and transmitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within 1 year of the date on which funds are appropriated for the study.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

○

Senator **Bingaman**. I know Senator Domenici will have a statement when he arrives.

I believe our first witness is Congressman Sam Gejdenson from Connecticut, and I want to thank him for coming over and being willing to spend time with us. He has been recognized as a leader in trying to strengthen our archeological protection and preservation efforts, and I strongly support the legislative effort that he is putting forward here and look forward to his testimony.

He is the author of H.R. 4068, the Archeological Resources Protection Act. Amendments which passed the House of Representatives in July.

Congressman Gejdenson, we are very pleased to have you here. Go ahead with your testimony, please.

STATEMENT OF HON. SAM GEJDENSON, U.S. REPRESENTATIVE FROM CONNECTICUT

Mr. **Gejdenson**. Thank you very much, Mr. Chairman. I thank you for giving me this time and spending some of your valuable time on this issue.

When I was in the state house traveling in Central America on a vacation, I came across ruins in Guatemala, in Mexico, and saw a lot of them being pilfered, cut up, shipped off, many of them to museums in New York.

And there was some pain seeing that much history being destroyed, but I understood why it was happening. We were looking at countries that could just barely feed their own people, barely move their country forward and take care of their medical and nutritional and educational needs. You couldn't expect them to take large sums of money to try to protect ancient history. And so I went away frustrated but understanding.

When I got to Congress and started focusing on what we do in this country, it became frightening that a country of our wealth and ability and normal sense of history is allowing our nation's history and the Native American history to be bulldozed and destroyed.

And, as you indicated, 4068, which I introduced in the House, passed unanimously in July. I commend Senator Domenici for his two pieces of legislation.

I have had a long-standing interest in archeology and the protection of archeological resources, and one of the things that became apparent when we held a hearing in Cortez, Colorado, down near the Four Corners area, was that the American people and the people of the Southwest as well believe that these archeological resources on public lands belong to all Americans; that these national treasures, however, are being systematically and ruthlessly destroyed by professional looters.

Much of it ends up in New York and Boston and other fancy showrooms. The Forest Service admits that as much as 90 percent of the archeological sites on federal lands and in the Southwest have been looted or vandalized, and these historic resources are just being destroyed. And we basically do not even have a good catalogue of what is out there.

The eight years of experience since we passed ARPA have demonstrated weaknesses in the law. In fact, there has only been one felony conviction by a jury since ARPA was passed in 1979.

Because of the weaknesses in ARPA, federal prosecutors often resort to other statutes and are unable to dissuade people from continuing digging on federal land. While there are differences between my bill, 4068, and S. 1314, both will make two important changes in current law.

Those changes will strengthen enforcement of ARPA and significantly reduce the level of looting from American archeological sites.

I think you are familiar with what both bills have. What I would like to stress is our bill, which was introduced, I think, after Senator Domenici's, in the House, has two important differences, two provisions which are not contained in the Senate bills. And I think if we could focus on those, it would be somewhat helpful.

First, the House bill strikes the requirement under Federal law that an artifact must be of archeological interest. One of the things that we heard at our hearings—two things happened. One, you catch a guy with a piece of pottery or something, the first thing, he usually brings in an expert who says that piece of pottery is not worth $5,000, which is the present threshold. You can buy those for fifty bucks on the street on a daily basis.

We have got where the house is full of that kind of pottery. It is not worth anything, so the first thing under present law you are going to fight over the value. So, even if you found a guy stealing, you know, digging up something on federal land, they say the threshold is not met because it is not worth anything.

And then maybe if you prove it is of some value, you maybe prove in New York they sold similar pots recently for lots of money, you say, well, it is not of archeological interest, and you get the jury going on the fact of what is archeologically interesting. So, that is one thing that I would add to the Senator's excellent legislation, and that is to remove what is in present law, the issue of archeological interest.

And, second, we would require on the House side that each federal land manager establish a program to increase public awareness of the significance of archeological resources.

One of the things that became clear is that in the Southwest, you know, people have done this for centuries. They have been going out there. Their father and grandfather did it. They went out and hunted for pots. And it seems to be, you know, something that is not offensive. They are not trying to do anything bad. They feel that they are good citizens.

And part of what you have got to do is not just more police. It is sensitize the people and make sure the land managers be sure as part of their land program they get that information across. I think with some good public education and a combination of Senator Domenici's great legislation and ours that we can move forward quickly and a big difference in what has been going on out there. Thank you.

And, again, most of the praise, Senator Domenici, I had for you I had at the beginning of my statement. But, as part of the record, you can check on it later. I really commend you for the great job you have done on this.

[The prepared statement of Mr. Gejdenson follows:]

STATEMENT OF REPRESENTATIVE SAM GEJDENSON
ARCHEOLOGICAL RESOURCES PROTECTION ACT
SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS
COMMITTEE ON ENERGY AND NATURAL RESOURCES
SEPTEMBER 14, 1988

MR. CHAIRMAN:

I WOULD LIKE TO THANK YOU FOR GIVING ME AN OPPORTUNITY TO TESTIFY BEFORE THE SUBCOMMITTEE TODAY ON THE ARCHEOLOGICAL RESOURCES PROTECTION ACT. AS THE AUTHOR OF H.R. 4068, I AM PLEASED TO SEE THIS BILL, AS WELL AS SENATOR DOMENICI'S TWO PIECES OF LEGISLATION, COME BEFORE THE SUBCOMMITTEE TODAY. THE HOUSE, AS YOU KNOW, UNANIMOUSLY APPROVED H.R. 4068 ON JULY 26TH.

MR. CHAIRMAN, I HAVE A LONGSTANDING PERSONAL INTEREST IN THE PROTECTION OF AMERICA'S ARCHEOLOGICAL RESOURCES. FOR THAT REASON, I MADE THE STRENGTHENING OF AMERICA'S ARCHEOLOGICAL PROTECTION LAWS A TOP PRIORITY WHEN I BECAME CHAIRMAN OF THE HOUSE INTERIOR SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS. I SUBSEQUENTLY CHAIRED A FIELD HEARING IN COLORADO ON THE ISSUE OF PROTECTING ARCHEOLOGICAL RESOURCES IN THE SOUTHWEST AND ISSUED AN INVESTIGATIVE REPORT WHICH SERVED AS THE BASIS FOR THE LEGISLATION I INTRODUCED.

WHAT BECAME APPARENT DURING THIS INVESTIGATION, MR. CHAIRMAN, IS THAT MOST PEOPLE BELIEVE THAT ARCHEOLOGICAL

RESOURCES ON PUBLIC LANDS BELONG TO ALL AMERICANS. THESE NATIONAL TREASURES, HOWEVER, ARE BEING SYSTEMATICALLY AND RUTHLESSLY DESTROYED BY PROFESSIONAL LOOTERS.

THE INTERIOR DEPARTMENT AND THE FOREST SERVICE REPORT THAT AS MUCH AS 90 PERCENT OF THE ARCHEOLOGICAL SITES ON FEDERAL LANDS IN THE SOUTHWEST HAVE BEEN LOOTED OR VANDALIZED. THIS HIGH LEVEL OF HISTORICAL RESOURCE DESTRUCTION CANNOT GO UNCHECKED.

THE EIGHT YEARS OF EXPERIENCE SINCE PASSAGE OF ARPA HAVE DEMONSTRATED THAT THERE ARE WEAKNESSES IN THE LAW THAT MAKE IT EXTREMELY DIFFICULT TO PROSECUTE LOOTERS. IN FACT, THERE HAS BEEN ONLY ONE ARPA FELONY CONVICTION BY JURY SINCE THE LAW WAS PASSED.

BECAUSE OF THE WEAKNESSES IN ARPA, FEDERAL PROSECUTORS OFTEN RESORT TO STATUTES OTHER THAN ARPA TO PROSECUTE ARCHEOLOGICAL LOOTERS.

WHILE THERE ARE DIFFERENCES BETWEEN H.R. 4068 AND S. 1314, BOTH WILL MAKE TWO IMPORTANT CHANGES TO CURRENT LAW. THESE CHANGES WILL STRENGTHEN ENFORCEMENT OF ARPA AND SIGNIFICANTLY REDUCE THE LEVEL OF LOOTING OF AMERICA'S ARCHEOLOGICAL SITES.

THE FIRST PROVISION WILL CHANGE CURRENT LAW WHICH REQUIRES THAT AN ARTIFACT BE WORTH $5,000 BEFORE THE CRIME CAN BE PROSECUTED AS A FELONY. THE BILL WILL LOWER THE THRESHOLD TO

$500 TO BRING IN MANY MORE ARTIFACTS.

SECOND, IT WILL MAKE ATTEMPT TO EXCAVATE AN ARCHEOLOGICAL SITE A PROHIBITED ACTIVITY UNDER ARPA. THIS CHANGE WILL ALLOW THE PROSECUTION OF LOOTERS WHO ARE CAUGHT DIGGING, BUT WHO HAVEN'T YET RETRIEVED THE OBJECT.

MR. CHAIRMAN, I WOULD ALSO SUGGEST THAT THE SUBCOMMITTEE ADOPT TWO PROVISIONS OF H.R. 4068 WHICH ARE NOT CONTAINED IN SENATOR DOMENICI'S BILL. THESE ADDITIONAL PROVISIONS WERE ADDED BY THE HOUSE INTERIOR COMMITTEE AFTER SENATOR DOMENICI HAD INTRODUCED HIS LEGISLATION.

FIRST, THE HOUSE BILL STRIKES THE REQUIREMENT UNDER CURRENT LAW THAT AN ARTIFACT MUST BE "OF ARCHEOLOGICAL INTEREST." THIS PROVISION OF CURRENT LAW ONLY CONFUSES JURIES AND INJECTS A SUBJECTIVE VIEW OF ARCHEOLOGICAL RESOURCES INTO THE COURTROOM.

SECONDLY, THE HOUSE LEGISLATION WILL REQUIRE EACH FEDERAL LAND MANAGER TO ESTABLISH A PROGRAM TO INCREASE PUBLIC AWARENESS OF THE SIGNIFICANCE OF ARCHEOLOGICAL RESOURCES.

I ALSO STRONGLY SUPPORT SENATOR DOMENICI'S SECOND BILL, S. 1985, WHICH REQUIRES PUBLIC LAND MANAGERS TO DEVELOP PLANS TO INVENTORY THE LOCATION AND CONDITION OF AMERICA'S ARCHEOLOGICAL SITES.

MR. CHAIRMAN, THE ARCHEOLOGICAL PROTECTION LEGISLATION BEFORE THE SUBCOMMITTEE TODAY WILL REVERSE THE SHOCKING INCREASE IN RECENT YEARS IN ARCHEOLOGICAL SITE LOOTING. THE U.S. ATTORNEYS IN ARIZONA AND UTAH, WHO ARE PARTLY RESPONSIBLE FOR PROSECUTING CASES UNDER ARPA, BELIEVE THAT THE COMPROMISE BILL WILL LEAD TO A DRAMATIC INCREASE IN PROSECUTIONS UNDER THE LAW.

I URGE THE SUBCOMMITTEE TO MOVE FORWARD WITH THIS LEGISLATION BEFORE MORE OF AMERICA'S HISTORY IS DUG UP AND AUCTIONED OFF FOREVER. I LOOK FORWARD TO WORKING WITH THE SUBCOMMITTEE IN THE COMING WEEKS TOWARDS APPROVAL OF THIS LEGISLATION BEFORE THE END OF THIS SESSION OF CONGRESS.

Senator **Domenici**. Senator Bingaman does not mind if you praise me, especially when I am not here.

Senator **Bingaman**. I will be a witness. He did praise you before you arrived.

Let me just defer to Senator Domenici for any opening statement he has or any questions he might have or comments he would like to make before Congressman Gejdenson wants to head back to the House.

STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR FROM NEW MEXICO

Senator **Domenici**. Let me just indicate I have no questions of the Congressman.

I have an opening statement which is a rather lengthy explanation of the history and background. Clearly we have so much to do this afternoon and I just ask that my statement be made a part of the record, and indicate just generally that clearly we must find a way to do a better job in this area that we are talking about now. I am delighted you are going to chair, and we will get it done.

I believe there is no cure for the problem. It is very complex, and we will never convince people to behave right in all respects. And consequently we will not fix it in its entirety, but I think the basic principles in the bill that I introduced and which I think the House is moving on a good approach. It is not going to cost a lot of money. It will give those who enforce the law a much better shot at controlling us, and I hope we get to pass it. Thank you very much, Mr. Chairman.

[The prepared statement of Senator Domenici follows:]

PETE V. DOMENICI
NEW MEXICO

United States Senate
WASHINGTON, DC 20510

COMMITTEES:
BUDGET
APPROPRIATIONS
ENERGY AND NATURAL RESOURCES
AGING

STATEMENT OF SENATOR PETE V. DOMENICI ON THE PROTECTION OF ARCHAEOLOGICAL RESOURCES

Subcommittee on Public Lands, National Parks and Forests
Committee on Energy and Natural Resources
United States Senate

September 14, 1988

Mr. Chairman,

Imagine the hue and cry that would rise across our Nation if someone, in the dead of night, dug up Plymouth Rock and carted it off for his own private collection.

The public would be outraged, and justifiably so.

Plymouth Rock holds an important place in our national historic and cultural heritage. It belongs to each of us.

Well, Mr. Chairman, similar events are occurring daily across our land, and the hue and cry has yet been heard. I'm talking about the theft of our Nation's archaeological resources. It's time that we sound the alarm before our cultural resources are lost forever.

On public lands across our Nation, pot-hunters and other archaeological looters are digging through ancient Indian pueblos, historic Spanish shipwrecks, and the graves of Civil War soldiers and Native Americans, then stealing artifacts for a collection or sale.

For example, an Arizona man was recently caught after he tried to sell a 1,350-year-old mummy of a Hohokam Indian infant to an undercover Federal agent for $35,000. This man had found the mummy --- wrapped in a deer skin with several baby animal pelts, a small basket, and an unfinished woven mat --- in a cave on National Forest land. The man said that, since he found the mummy and artifacts on Federal land, he thought they were his to keep.

What makes this case unusual is the fact that he was caught, convicted, and sentenced to jail for his crime. Most thefts of archaeological resources on public lands are not detected in time to apprehend the culprits. And in the rare instance of an arrest, the thieves are hardly ever punished.

Archaeological resources are like endangered species: once they are destroyed, they are gone forever.

After holding oversight hearings in 1985 on the problem of looting of archaeological artifacts on public lands, Senators Wallop and Bingaman and I requested that the General Accounting Office (GAO) review the problem.

The GAO report was issued last December. It found that approximately 44,000 of the 136,000 archaeological sites in the Four Corners States of New Mexico, Arizona, Colorado, and Utah have been looted. In a 5-1/2 year period ending in 1986, the Bureau of Land Management (BLM), the Forest Service, and the National Park Service documented 1,222 looting incidents in the four States.

Yet GAO concluded that these three agencies lack accurate documentation on the extent of looting. Agency records do not reflect the full extent of looting, either the current level of looting or its cumulative effects. There are no agency-wide directives specifying under what circumstances a looting incident report should be prepared. In many instances, no report is prepared.

GAO determined that some of the factors in the continued looting of archaeological resources were the low probability of prosecution, the public attitude that looting was not really a crime, and the lack of education about the significance of archaeological sites.

In addition, GAO noted that BLM, the Forest Service, and the Park Service lack sufficient staff, funds, and knowledge of the resources they are supposed to protect to carry out effectively their cultural management responsibilities.

GAO concluded that the three agencies' efforts have not been extensive enough to cause commercial looters to fear being caught, and thus cease looting.

Archaeological resources located on Federal land have been protected since 1906, when Congress enacted the Antiquities Act. The Antiquities Act provides that qualified institutions may be issued permits for the excavation of archaeological sites. It also provides criminal penalties for unauthorized excavations.

However, in the late 1970's, the courts invalidated a crucial section of the Antiquities Act, thus creating the need for stronger legislation.

In 1979, I wrote the Archaeological Resources Protection Act (ARPA). ARPA toughened the laws protecting archaeological resources on Federal lands by imposing severe criminal penalties for unauthorized excavation, damage, destruction, or removal of archaeological resources. It provides fines up to $100,000 and five years in jail for criminal violations. It also allows

Federal land managers to impose civil penalties for violations and grant rewards for information on violations.

Mr. Chairman, I appreciate your holding hearings today on two bills, S. 1314 and S. 1985, that I introduced that would amend ARPA to improve the protection and management of archaeological resources on Federal lands.

S. 1314 would change the provision in ARPA that requires prosecutors to show that the looting resulted in $5,000 worth of damage in order to categorize the offense as a felony. It would lower the felony threshold from $5,000 to $500. Determining the value of the archaeological resources damaged entails professional evaluation and technical issues that are difficult to convey to a non-professional jury.

It would also amend ARPA to make the attempted looting of archaeological artifacts on Federal land a crime. Significant damage can occur to archaeological resources by persons attempting to collect such resources, as well as by those persons who succeed in looting the resources.

S. 1985 would strengthen the provisions of ARPA by directing BLM, the Park Service, the Forest Service, and other Federal agencies to develop plans to survey the lands under their control to determine the nature and extent of archaeological resources on those lands.

This bill would also require the agencies to prepare a schedule for surveying those areas that are likely to contain the most important archaeological resources.

Finally, it directs the agencies to develop processes for reporting suspected incidents of looting of archaeological resources on their lands.

The provisions in these two bills were supported by the GAO in its report on the looting of archaeological resources.

In June, I testified before the Committee on Interior and Insular Affairs of the House of Representatives and urged them to pass legislation to improve the management and protection of archaeological resources on public land. The House subsequently passed H.R. 4068, which is also before the Subcommittee today.

In addition to incorporating the provisions of S. 1314, H.R. 4068 would delete the requirement under ARPA that an item must be of "archaeological interest" to be covered under ARPA and would require each federal land manager to establish an educational program to increase public awareness of the significance of archaeological resources located on public and Indian lands and the need to protect such resources.

Mr. Chairman, we need to strengthen our laws. There is no doubt about that. But it isn't sufficient to simply strengthen existing statutes. We need to provide adequate resources and direction to the land management and law enforcement agencies to ensure that the laws are enforced.

Last year, the Congress provided significant increases in the BLM and Park Service budgets for cultural resource management.

Unfortunately, the President's Budget for Fiscal Year 1989 proposed cuts in funding for cultural resource management. At the Forest Service, the proposed cut would was $2 million, or 13 percent. BLM cultural resource management programs were proposed to be decreased by 5 percent. Three Park Service programs for cultural resources management were slated for elimination.

The Administration's proposed funding reductions were unjustified. Archaeological looting is reaching crisis proportions. We need to provide our land management agencies with adequate resources to confront this crisis.

I am pleased that the Congress agreed with me and rejected the Administration's proposals.

The Interior Appropriations bill just sent to the President increases the Forest Service cultural resources management budget by 13% over its current level, bringing it to $15.9 million.

The bill continues the three Park Service cultural resources management programs that the Administration proposed to eliminate. These programs will be funded at their current level of $49 million.

The Interior Appropriations bill also increases BLM's budget for cultural resources management by $400,000 above the President's request, thus restoring it to its base level of $6.6 million.

Last year, at my urging, Congress also earmarked $1 million in the Department of Justice budget to be used to enhance efforts to identify and prosecute individuals who loot archaeological sites on federal land. The Department of Justice declined to testify today, but nonetheless I hope that we will be able to examine how the Department utilized the funds.

Mr. Chairman, it is clear that the Federal Government's efforts to protect archaeological resources on the lands under its control have been woefully inadequate. We stand by while our nation's archaeological heritage is stolen and sold as quaint curios. Just as we would not stand idly by and allow the theft of Plymouth Rock, we can no longer allow this to continue.

The failure to protect our nation's archaeological resources constitutes a breach of faith by the Federal Government. As the trustee of these lands for the American people, the Federal Government has an obligation to assure that these resources are not destroyed or stolen by those who have no respect for the past.

I urge the Subcommittee, as you continue your work on the protection of our archaeological resources, to give careful consideration to the provisions of S. 1314 and S. 1985, two bills that would help achieve that worthy goal.

Senator **Bingaman**. Thank you. And, Congressman, thank you very much for coming over to testify. We will act as speedily as possible on your legislation.

Mr. **Gejdenson**. Thank you. Thank you very much.

Senator **Bingaman**. Why don't we ask the next two witnesses to come forward.

Now, Jerry Rogers, Associate Director for Cultural Resources for the National Park Service, and William L. Rice, the Deputy Chief for Administration of the Forest Service. If you gentlemen would come up, go ahead and give us your views on the legislation that we are considering today.

STATEMENT OF JERRY ROGERS, ASSOCIATE DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. **Rogers**. Mr. Chairman, my name is Jerry Rogers. I am Associate Director for Cultural Resources of the National Park Service. Do you want to go through all seven of the bills right now?

Senator **Bingaman**. My view would be for you to just summarize your position on each of the bills and any points you feel you need to make with regard to them, I think that would be fine, and then we will ask Mr. Rice to do the same.

Mr. **Rogers**. Very good, Mr. Chairman. The official statements are available for the record, so I would like to just hit the high points on them. First, I would like to thank and congratulate the subcommittee and particularly the Senators from New Mexico for their devout interest in this very important subject.

We strongly recommend the enactment of S. 1314; alternatively we would recommend the enactment of H.R. 4068 if it were amended as I will suggest in a moment; we do not recommend enactment of S. 1985. All of these deal with the Archaeological Resources Protection Act. Let me make a few comments about them.

Congressman Gejdenson made reference to the proposal to delete the phrase "of archaeological interest" in H.R. 4068 because it has caused some confusion in prosecution for violations under the act. We do not object to that deletion although it is our view that it is not necessary.

If it should be done, we would ask the subcommittee to give attention to the possibility of avoiding rewriting the regulation by which the program is administered. We think that that could be done, and you could take care of that with report language if you should agree with that suggestion.

We do strongly support making attempted violations a crime. Certainly there are many occasions when we cannot prosecute for looting a resource until after the damage is already done, and then it is too late to really save what needs to be saved.

We strongly support lowering the threshold value to $500. I think Congressman Gejdenson made a strong and appropriate statement about that.

H.R. 4068 would also require Federal land managers to establish a program to increase public awareness of the significance of archaeological resources on public lands and the need to protect them. We have no objection to a public awareness program concerning the need to protect archaeological resources. We can do that under existing authority, but we do not see a need for an additional report.

If the committee desires additional information on public awareness activities, we believe we can do that through our normal annual report on the condition of archaeological protection programs. Again, the committee could provide for that existing mechanisms.

S. 1985 in our view duplicates requirements for planning and inventorying which the land management agencies are already authorized and required to do, and that we already do have documents and procedures for reporting violations of the Archaeological Resources Protection Act.

We are already carrying out training in accordance with that law and, therefore, we would find that that provision would be redundant, and we oppose enactment of S. 1985.

If I could move on to S. 2617 dealing with Aztec Ruins National Monument, the Administration recommends against enactment of S. 2617 for two basic reasons. At the present time the general management plan for the unit of the National Park System is being prepared. It is not yet completed. We believe that it would be prudent to defer action until after that general management plan has been completed.

Second, the Administration is concerned about the cost factor, believing that local land owners might be falsely misled to believe that they would soon have their lands purchased when we know that is often not the history of new land acquisitions.

For S. 2545 dealing with Salinas National Monument redesignating it as Salinas Pueblo Missions National Monument, that is entirely appropriate. With the history of that important site, it is entirely appropriate, entirely consistent with the purpose of the monument as set forth in the original legislation in 1980. We recommend enactment of this measure.

S. 2750 deals with and calls for a study of ways in which to commemorate the nationally significant contributions of Georgia O'Keeffe. We do not object to the enactment of S. 2750. We think that there is no question that this woman was of national significance. There is no question.

But what the landscape—the beautiful New Mexican landscape that surrounded her home and studio—was a major part of her inspiration, and we believe that the study ought to be done. We would ask that the study be completed not one year from date of enactment of this authorization, but rather one year from the date on which funds would be appropriated in order to do the study.

For S. 2767 calling for an examination, a study of the historic and prehistoric cultures that evolved around Warm Springs in southwestern New Mexico as they relate to American frontier military history and the development of American Indian policy, again, we do not object to enactment. If it is enacted, we would recommend that not only the Warm Springs Apaches, but the Mescalero Apaches and other Apache tribes in Oklahoma and New Mexico and the Bureau of Indian Affairs be involved in the study, and it would be our intention to so involve them.

I will be happy to answer questions now or after other testimony.

[The prepared statements of Mr. Rogers follow:]

STATEMENT OF JERRY ROGERS, ASSOCIATE DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, CONCERNING H.R. 4068, S. 1314, AND S. 1985, BILLS TO AMEND THE ARCHAEOLOGICAL RESOURCES PROTECTION ACT OF 1979.

September 14, 1988

Mr. Chairman, I appreciate the opportunity to provide your Subcommittee with the views of the Department of the Interior on these bills.

We strongly recommend the enactment of S. 1314. Alternatively, we would recommend the enactment of H.R. 4068, if it is amended as discussed below.
We do not recommend enactment of S. 1985, because it duplicates existing authority and procedures already in practice by the land managing agencies.

All three bills would amend the Archaeological Resources Protection Act of 1979. That Act authorizes Federal land mangers to issue permits to qualified persons for removal of archeological items that are 100 years old or older. It prohibits the excavation or removal of archeological resources without such a permit, and it prohibits the sale or trade of resources removed from public lands or Indian lands without a permit. Criminal penalties are established for violations, beginning with not more than $10,000 or one year imprisonment for knowing violations. Civil penalties are also authorized.
S.1314 and H.R. 4068 would amend the 1979 Act in the following respects:

-- H.R. 4068 deletes the requirement that a resource to be protected under the Act must be "of archeological interest"; no similar provision appears in S. 1314;

-- S. 1314 and H.R. 4068 make attempted violation of prohibited acts a crime in addition to actual violation as in the current law;

-- S. 1314 and H.R. 4068 reduce from $5,000 to $500 the value of resources which, if harmed, give rise to a doubling of the penalty; and

-- H.R. 4068 directs each Federal land manager to establish a public awareness program and submit an annual report thereon to the committees. No similar provision is contained in S. 1314.

We understand that the phrase "of archaeological interest" is deleted in H.R. 4068 because it has caused some confusion in some prosecutions for violations under the Act. While we do not object to this deletion, we believe is unnessesary. The definition of "archaeological resource" in the existing regulations implementing the Act is clear and does not require any modification If the committee adopts this provision we recommend that language in the committee report be included to affirm our belief that no change in the regulations is needed.

We strongly support making attempted violations a crime. Under existing law we cannot prosecute for looting archeological resources until after the damage has occurred, and often then it is too late to save the material.

We also support lowering the value threshold to $500. We understand that prosecutors frequently have difficulty in demonstrating to judge and jury that damage meets or exceeds the present threshold of $5,000. The lower amount would probably not lessen the need for expert archeological testimony about the cost of scientifically excavating and analyzing the resource and the cost of restoring and repairing a damaged resource, but judges and juries would more readily accept such testimony toward proving the lower value than the higher one.

H.R. 4068 would also require Federal land managers to establish a program to increase public awareness of the significance of archeological resources on public lands, and the need to protect such resources. The bill would require each land manager to submit an annual report to the authorizing committees on the actions taken. We have no objection to a public awareness program concerning the need to protect archeological resources, and we can do so under existing authority, but we see no need for an additional report. If the committees desire information on public awareness activities, it could be provided as part of the annual report to the Congress that is already required under the Act. We recommend the committee amend this provision such that the requirement to submit a report will be satisfied by information included in the annual report required under existing law, if the committee adopts H.R.4068.

S. 1985 would direct Interior, Agriculture, Defense, and TVA to develop plans for archeological surveys on their lands, prepare a schedule for surveying lands containing the most scientifically valuable archeological resources, and develop documents for reporting suspected violations and procedures for completing such reports.

We believe these proposed requirements duplicate the planning and inventorying that land management agencies are already authorized to do. For example, the National Park Service already has cultural resource management plans for most of its units. These plans are designed to include evaluations of survey needs and plans for programming these surveys.

Moreover, the land-managing bureaus in Interior already have developed documents and instituted procedures for reporting violations of ARPA. The National Park Service has also developed additional training for Federal and State law enforcement and resource specialists on how to use ARPA when violations have occurred or are suspected. We are working with the other agencies to improve the systematic collection of ARPA violation data Government-wide. Additional plans and document requirements, such as are contained in S. 1985, are not necessary.

Accordingly, we oppose enactment of S. 1985.

This concludes my prepared testimony, Mr. Chairman. I would be pleased to respond to any questions you may have.

STATEMENT OF JERRY ROGERS, ASSOCIATE DIRECTOR, CULTURAL RESOURCES, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS & FORESTS, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, CONCERNING S. 2617, A BILL TO REVISE THE BOUNDARY OF AZTEC RUINS NATIONAL MONUMENT IN THE STATE OF NEW MEXICO, AND S. 2545, A BILL TO REDESIGNATE SALINAS NATIONAL MONUMENT IN THE STATE OF NEW MEXICO, AND FOR OTHER PURPOSES.

SEPTEMBER 14, 1988

Mr. Chairman and Members of the Committee, it is a pleasure to be here today to discuss S. 2617, a bill to revise the boundary of Aztec Ruins National Monument in the State of New Mexico, and S. 2545, a bill to redesignate Salinas National Monument in the State of New Mexico, and for other purposes.

S. 2617 - Aztec Ruins National Monument

We recommend against enactment of S. 2617 at this time.

S. 2617 would revise the boundary of Aztec Ruins National Monument by adding approximately 291.89 acres of mostly private land. From the statements made by the sponsor of this legislation, the purpose of the added land is the protection of the resources within the existing boundary and protection of resources outside the existing boundary which are directly related to the mission of the existing national monument.

Aztec Ruins National Monument was established on January 24, 1923, by Presidential Proclamation 1650. In recognition of "ruins of great antiquity and historical interest," President Warren G. Harding established the 4.6 acre national monument containing a single ruin "with a view to the preservation of said ruin for the enlightenment and culture of the Nation." Additional ruins were added in three boundary adjustments. The monument now includes 27.14 acres.

The acquisition of these additions is estimated to cost approximately $3.55 million. We must recommend against enactment of S. 2617 at this time. First, the additions proposed in S. 2617 are being considered as one of the options in the development of a General Management Plan for Aztec Ruins National Monument and the process is not completed. The enactment of S. 2617 would, therefore, preclude implementation of any of the other options. Second, Mr. Chairman, as we have said on previous occasions, we do not think it is fair in these times of fiscal austerity to send false signals to affected landowners that the Federal Government will soon knock on their doors with checkbook in hand to pay them for their lands as soon as this measure becomes law. We both know from past experience that that simply will not happen. And to further raise expectations of local residents that passage of this legislation will signal the beginning of extensive development of the monument when those expectations are very unlikely to be realized would be unwise. Associated development to make full use of the property could cost up to $4.2 million, and we cannot support such an expenditure.

S. 2545 - SALINAS NATIONAL MONUMENT

S. 2545 would redesignate Salinas National Monument as Salinas Pueblo Missions National Monument. This is a similar measure to H.R. 3541, which was passed by the House of Representatives on July 26, 1988.

Congress established Salinas National Monument (P.L. 96-550) in December 1980 "to set apart and preserve for the benefit and enjoyment of the American people the ruins of prehistoric Indian pueblos and associated seventeenth century Franciscan Spanish mission ruins." We believe the reference in the new designation to Pueblo Missions is appropriate and consistent with the purpose of the monument as set forth in 1980.

If S. 2545 were enacted, there would need to be a change made in the wording of 15 directional signs at a cost of approximately $10,000 as well as miscellaneous changes in brochures and other interpretive materials at a cost of approximately $2,000. These costs would be absorbed within existing operational funding for the national monument.

That concludes my prepared statement, Mr. Chairman. I would be happy to respond to any questions that you or other members of the Committee may have.

STATEMENT OF JERRY ROGERS, ASSOCIATE DIRECTOR, CULTURAL RESOURCES, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS & FORESTS, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, CONCERNING S. 2750, A BILL TO AUTHORIZE A STUDY ON METHODS TO COMMEMORATE THE NATIONALLY SIGNIFICANT CONTRIBUTIONS OF GEORGIA O'KEEFFE, AND S. 2767, A BILL TO AUTHORIZE A STUDY OF THE CULTURE THAT EVOLVED AROUND WARM SPRINGS IN NEW MEXICO, AND FOR OTHER PURPOSES.

SEPTEMBER 14, 1988

Mr. Chairman and Members of the Committee, it is a pleasure to be here today to discuss S. 2750, a bill to authorize a study of methods to commemorate the nationally significant contributions of Georgia O'Keeffe, and S. 2767, a bill to authorize a study of the culture that evolved around Warm Springs in New Mexico.

S. 2750 - Georgia O'Keeffe

We do not object to the enactment of S. 2750.

S. 2750 would authorize and direct the Secretary to conduct a study of the most appropriate way to interpret the nationally significant contributions of the late Georgia O'Keeffe. The study shall include an evaluation of the feasibility of establishing a landscape museum consisting of scenes and features from which Ms. O'Keeffe drew much of her inspiration. The study is to be completed within one year from the date on which funds are appropriated.

The life of Georgia O'Keeffe exemplifies a special kind of courage. She sought meaning within herself, rejecting much of her early training in painting and rebelling against the popular esthetic standards of the time. She also chose to live much of her life in isolation among the red and grey hills of northern New Mexico. Through her highly focused, intensely concentrated life, she has instilled into her paintings of hills, shells, pelvic bones, flowers, rocks, and abstract forms "the wideness and wonder of the world." Recognizing Georgia O'Keeffe's unique contribution to our national life, the Congress authorized the establishment of her home and studio in Abiquiu, New Mexico, as a national historic site. Georgia O'Keeffe was the first painter to be honored in this way with the enactment of Public Law 96-344. However, at the subsequent request of the people of the town of Abiquiu and that of her family, the site was deauthorized under Public Law 98-396. S. 2750 would review alternative methods of commemorating the late Georgia O'Keeffe and her work, specifically focussing on the physical terrain and features from which Georgia O'Keeffe drew much of her inspiration.

We estimate that it would cost approximately $100,000 to do such a study and would note that there are currently no funds or staff to complete the study envisioned by S. 2750. Therefore, with the understanding that the study would be due within one year of the date on which funds are appropriated, we do not object to the enactment of S. 2750.

S. 2767 - Warm Springs

We do not object to the enactment of S. 2767.

S. 2767 would authorize and direct the Secretary of the Interior to conduct a study of the historic and prehistoric cultures that evolved around Warm Springs in Southwestern, New Mexico, as they relate to American frontier military history and the development of American Indian policy. We understand that the study area is located at the headwaters of Canada de Alamosa, about 45 miles northwest from the town of Truth or Consequences, New Mexico, and is at the northern area of the Black Range, in Socorro County.

The story of Victorio's War in the evolution of American military history is well known as are the tactics employed by Victorio and his band of the Warm Springs Apaches against both the United States Army and the Mexican Army. Given the nature of this portion of the study, we recommend that the Warm Springs and Mescalaro Apaches, other Apache tribes in Oklahoma and New Mexico, and the Bureau of Indian Affairs be involved in the study; and it is our intention to include them.

We estimate that it would cost approximately $75,000 to do such a study and would note that there are currently no funds or staff to complete the study envisioned by S. 2767. Therefore, with the understanding that the study would be due within one year of the date on which funds are appropriated, we do not object to the enactment of S. 2767.

Senator **Bingaman**. Thank you. Let me go ahead and ask Mr. Rice if he would testify on the bills and the position the Forest Services takes on them, and then we will have questions.

STATEMENT OF WILLIAM L. RICE, DEPUTY CHIEF, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. **Rice**. Thank you, Mr. Chairman.

Senator **Bingaman**. You might just pull that microphone up a little bit there, please.

Mr. **Rice**. The bills that the Forest Service is interested in testifying on today are associated with the archeological resources, and they all, to a different degree, Mr. Chairman, address legislation that is certainly needed to protect the archeological resources on public lands as we know them today.

The Department of Agriculture's views are outlined in the official statement that we have submitted for the record, and they are not that much dissimilar to the Park Service's position. And rather than to take up additional time in highlighting the statement, I would like to make my time available for any questions that you may have. Thank you, sir.

[The prepared statement of Mr. Rice follows:]

STATEMENT OF
WILLIAM L. RICE, DEPUTY CHIEF
FOREST SERVICE
UNITED STATES DEPARTMENT OF AGRICULTURE

Before the
Subcommittee on Public Lands, National Parks and Forests
Committee on Energy and Natural Resources
United States Senate

S. 1314, To amend the Archaeological Resources Protection Act of 1979

H.R. 4068, To amend the Archaeological Resources Protection Act of 1979

S. 1985, To improve the protection and management
of archaeological resources on Federal land

September 14, 1988

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for this opportunity to offer the Department of Agriculture's views on S. 1314, H.R. 4068, and S. 1985, all of which would amend the Archaeological Resources Protection Act of 1979.

S. 1314 AND H.R. 4068, TO STRENGTHEN THE ENFORCEMENT PROVISIONS OF ARPA

S. 1314 and H.R. 4068 would strengthen the Archaeological Resources Protection Act (ARPA). We support the enactment of S. 1314. We would also support the enactment of H.R. 4068 if amended as described below.

Both bills would amend section 6(a) of ARPA to make it possible to arrest and prosecute those who "attempt" to loot archaeological resources. ARPA is presently worded so that actual excavation, removal, damage, or defacing--and therefore archaeological resource damage--must occur before an arrest can be made. It is very difficult to catch violators in the act of looting. This amendment would make it possible to arrest, prosecute, and convict without damage to the resource.

Both bills would also amend section 6(d) of ARPA to lower the threshold between a misdemeanor and a felony from $5,000 to $500. Under current law, in order to obtain a felony conviction, we must prove that the commercial and archaeological value and the cost of restoration and repair of the archaeological resources exceeds $5,000. Determining the commercial value and restoration and repair costs for vandalized resources is relatively easy and straight-forward. However, the archaeological value is subject to varying professional opinions, and is therefore difficult to determine and defend. Reducing the value to $500 would increase the number of felony cases, because the commerical value and restoration and repair costs frequently exceed $500. This would serve as a significant deterrent to archaeological resource vandalism and theft.

If these amendments to ARPA are enacted, we would anticipate a higher conviction rate, more felony convictions and, most importantly, a reduction in the looting of archaeological resources.

H.R. 4068 would amend section 3(1) of ARPA by changing the definition of the term "archaeological resource." The phrase "which are of archaeological interest" would be struck from the definition. This subjective test has proven troublesome, because there are widely differing opinions regarding what is "of archaeological interest." On the other hand, the definition of "archaeological resource" in existing ARPA regulations is clear and does not need to be changed. Therefore, while we do not object to this deletion, it is not necessary. If this language is deleted, however, we recommend that the Committee report clarify that no change in the regulations will be needed.

H.R. 4068 would also amend section 10 of ARPA to require Federal land managers to establish a public awareness program dealing with the significance of the archaeological resources on public lands and Indian lands, and require annual reports to Congress on this program. While we do not object to conducting a public awareness program, and have authority to do so, we believe the reporting requirement duplicates the annual report already required by ARPA. Therefore, we recommend against this additional reporting requirement.

S. 1985, TO IMPROVE THE PROTECTION AND MANAGEMENT OF ARCHAEOLOGICAL RESOURCES

We oppose enactment of S. 1985.

S. 1985 would amend ARPA by adding a new section to require the Secretaries of the Interior, Agriculture, and Defense, and the Chairman of the Board of the Tennessee Valley Authority to develop plans and a schedule for archaeological surveys of lands under their control.

Presently, we conduct archaeological resource surveys on all National Fores lands where proposed land management activities could possibly disturb archaeological resources. We also survey areas where we believe there is a high probability of finding significant archaeological resources.

Additionally, cooperators, such as volunteers and universities, under the direction of the local Forest Supervisor, conduct surveys on National Forest lands. We do not, however, plan to survey the entire 190 million acres of the National Forest System. Because of the tremendous cost of implementing such a plan, and because many of the lands have a very low probability of containing important archaeological resources, we believe a complete survey is unnecessary. We prefer to utilize sampling and other survey strategies to identify significant archaeological values on areas not involved in current land management activities.

Additionally, S. 1985 would require each Secretary to develop documents and a process for reporting suspected violations of ARPA. In 1982, we implemented the Law Enforcement Management Reporting System (LEMARS) in the Forest Service. LEMARS provides Forest Service managers with a means of identifying, monitoring, and evaluating law enforcement activities through statistical analysis of the information provided on law enforcement reports, such as warning and violation notices, incident reports, and court disposition updates. We believe that LEMARS meets the intent and purpose of S. 1985 in regard to a reporting system for ARPA violations.

Like any system, it is not without shortcomings. In some cases, adequate data is not provided to the system. Educating and motivating employees about LEMARS is an ongoing process. We believe, however, that LEMARS is as good as any new system that we could devise in response to S. 1985.

Mr. Chairman, this concludes my testimony. I would be pleased to answer any questions you may have.

Senator BINGAMAN. Why don't we do this. Let me ask about two questions on the archeology bills and then defer to Senator Domenici to ask the questions he has on those, and then maybe we can also have another round where we ask questions about the more New Mexico specific bills.

Let me ask either or both of you, does your agency keep records of the citations given or the legal actions brought against looters or vandals on these public lands and, if so, what do those records indicate about how many folks actually get tried and how many of them get convicted?

Mr. RICE. I would respond first, Mr. Bingaman, we do keep records. However, an interesting point of view, citing looters or potential looters under existing archeological authorities is many times not as successful as using other legislation, such as property destruction authorities.

So, what we are attempting to do now and what we are doing is sophisticating our reporting process whereby we can make sure that regardless of the citation issued, whether it is under archeological legislation or property damage legislation, that we do have some knowledge of exactly how many are being issued, how many are tried, how many are convicted, et cetera.

Senator BINGAMAN. Do you have statistics you could give us, say, for 1987?

Mr. RICE. We certainly can provide those for the record, yes, sir.

Senator BINGAMAN. But you do not have them available today?

Mr. RICE. I do not have them available today, no, sir.

Senator BINGAMAN. Mr. Rogers?

Mr. ROGERS. The National Park Service is responsible for keeping such records as it can accumulate on that subject, and we do. I would like to offer for the subcommittee's attention this little report summarizing some of the greatest threats to America's archeological heritage. If perhaps someone could hand it forward, and with your permission I would like to ask Dr. Benny Keel, who is the Departmental Consulting Archeologist, to my left, to answer that earlier question about statistics.

Senator BINGAMAN. That is fine. Dr Keel.

Dr. KEEL. Senator, we started in 1985 trying to assemble this kind of information. Let me quickly run through some numbers for you.

For fiscal 1985 there were 436 documented instances of vandalism and looting. Of those, there were 27 arrests made, 45 citations issued, and we do not have the number of prosecutions, but the total number of convictions either by arrest or by jury trial was 34. So, you can see from those figures that is the number of documented instances, 436, the number of convictions, 34.

Senator BINGAMAN. That is 1985?

Dr. KEEL. That is 1985. From 1986, 627 documented instances, six arrests, 37 citations, nine convictions. 1987, and our figures are not complete, but they are probably about 90 percent complete. 654 instances, 25 arrests, 52 citations, 29 convictions. So, those are some of the statistics.

Senator BINGAMAN. OK. So, we have got more violations that we are aware of and fewer convictions in 1987 than we had in 1985?

Dr. KEEL. Yes, sir.

Senator **Bingaman**. What proportion, again, to either gentleman on this, what proportion of the current archeological funding that the Congress provides is used for surveys and preservations of sites in response to nonarcheological projects? Is that question clear?

Mr. **Rogers**. Senator, I am not sure if Dr. Keel could respond to that, but I would say that a high percentage of the National Park Service archeological survey that is done on national park lands is, in fact, done as part of the mitigation responsibility for projects or other activities that the Service is carrying out. So, we probably do more surveying in order to make sure that our projects are not harming archeology than we are able to do to just go out and find out if the archeology is there for general cultural resource management.

Senator **Bingaman**. So, your judgment is you spend more doing archeological surveys and surveys intended to preserve sites than you are funded to do, is that what you are saying?

Mr. **Rogers**. I did not quite understand the question.

Senator **Bingaman**. My question was how much of the archeological funding that is made available to you is used for surveys that are in response to nonarcheological projects, and I am not clear what your answer is.

Mr. **Rogers**. Well, the reason it is difficult to give an answer is that surveys that are done because of nonarcheological projects are funded by the nonarcheological project rather than funded from the archeological appropriation.

Senator **Bingaman**. I see. OK.

Mr. Rice?

Mr. **Rice**. Just one quick comment, Mr. Bingaman. Our monies are appropriated in one line item called cultural resource administration, and then this involves a multitude of activities including archeological sites.

I would suggest to you today that we spend probably more than the fair share of that particular item on archeological looting, surveys, arrests, followup, those kinds of things, but there is no specific funding for that.

Senator **Bingaman**. Let me defer to Senator Domenici, here, to ask anything he would like to.

Senator **Domenici**. I take it, Mr. Chairman, you want to continue on the two archeological bills then go back to the others?

Senator **Bingaman**. Yes, then go back to the ones that are specific to New Mexico is my thought.

Senator **Domenici**. Here is a chart, Mr. Chairman, that I think may be in response to your last question on resources. If it is signed this year, the Forest Service would have 15.9, Park Service 49.4, and the Bureau of Land Management 6.6 for a total of 71.9. That is million dollars in cultural resource management funding. That is up in total from 70.7. It is not much of an increase, but some.

The Park Service is down a bit, and the Forest Service and Bureau are up a bit. We could make that part of the record.

Mr. Chairman, Mark Michael of the Archeological Conservancy and John Ackler of the New Mexico Archeological Council were invited. They could not make the trip, but I request we put their statements in the record?

Senator **Bingaman**. We are glad to do that.

Senator **Domenici**. The Department of Justice has indicated in a report to us regarding the enforcement of the Archeological Resource Protection Act, and this report is just more of an analysis of the law than it is a statistical compilation. We could make that a part of the record. Thank you very much.

Senator **Bingaman**. Certainly.

[The information referred to follows:]

The Archaeological Conservancy
413 Orchard Drive
Santa Fe, New Mexico 87501
(505) 982-3278

June 30, 1988

The Honorable Pete V. Domenici
United States Senate
Washington, DC 20510

Dear Senator Domenici:

I am writing in support of two bills you have recently introduced to amend the Archaeological Resources Protection Act of 1979. I had the great privilege to work with you on this landmark legislation, and the amendments you have presented this year will greatly improve what we did in 1979.

In my view ARPA has been quite successful in stemming the tide of the looting of prehistoric ruins in the Southwest. Your amendments close two loopholes and will make implementation of the law even better.

S. 1314 reduces the felony threshold value of illegally obtained artifacts from $5000 to $500. This is a great improvement in the effectiveness of ARPA and removes an unnecessary obstacle to successful prosecution. This will give law enforcement officials greater flexibility in prosecuting violators and serve as an improved deterrent to looting in the first place. S. 1314 also makes attempting to loot a site a crime. This is also a great improvement to ARPA, making enforcement less difficult.

S. 1985 requires Federal land managers to survey public lands for cultural resources. This is a needed step to protect these resources. It will also document what looting has taken place and what will be needed to protect the resources.

With the introduction of S. 1314 and S. 1985 you have taken two steps to improve ARPA is a very significant way and we heartily endorse your efforts.

Sincerely,

Mark Michel
President

Preserving the past...for the future.

NMAC
NEW MEXICO
ARCHEOLOGICAL
COUNCIL

September 13, 1988

The Honorable Pete V. Domenici
United States Senator
434 Dirksen Building
Washington, D.C. 20510

Dear Senator Domenici:

We at the New Mexico Archaeological Council (NMAC), sincerely appreciate the opportunity to comment upon two bills, S.1314 and S.1985 which you have introduced before the Senate during this Congress. S.1314 would serve to lower the felony threshhold for Archaeological Resource Protection (ARPA) violations from $5000 to $500 in order to categorize the crime as a felony. S.1985 would strengthen ARPA by directing Federal land managing agencies to develop plans to inventory, prioritize and manage cultural resources. We, at NMAC, feel that both bills are strongly warranted in order to protect a nonrenewable national resource which is quickly being destroyed.

Essentially, Bill S.1314 legally simplifies the consequences of ARPA violations. The Archaeological Resource Protection Act authored by Senator Domenici in 1979 was the first legislation which attempted to impose criminal prosecution for those who vandalize archaeological sites. In practice, ARPA violators have not taken the legislation seriously; to complicate matters it has been difficult to prosecute. In the first place, funds allocated to ARPA enforcement have been sadly inadequate during the present administration. Secondly, the $5000 damage to archaeological resources is ambiguous and difficult to establish in a court of law. Although methods of calculation have been developed, the inherent worth of an archaeological resource is not easily or precisely measurable in monetary terms. The action proposed by Senator Domenici addresses the second point. The reduction of the minimum prosecutable damage threshhold removes much of the ambiguity from ARPA. Damage assessable at $500 is much easier to demonstrate in a court of law. The bill provides a clear message to pothunters that the Federal Government is serious about the protection of its cultural resources. It not only serves to punish ARPA violators but also to raise the public awareness as to the importance of our cultural resources.

The second piece of legislation, S.1985, directs land managing agencies to consider archaeological resources in long term land use planning. The bill mandates a survey schedule and requires the reporting of vandalism. Once again this bill requires that land management plans include the impacts upon archaeological resources and wherever possible, the avoidance of impact. This serves to raise the manager's awareness of cultural resources and forces the same agencies to account for acts of destruction. This act greatly enhances the protection status of these nonrenewable resources.

Few Americans really appreciate the scale of challenge which cultural resource management actually presents in terms of inventory or protection. Consider that Federal land managing agencies control over 650 milllion acres of land nationally with literally millions of archaeological sites. We clearly do not know how many sites exist, let alone how many are being destroyed annually. We do know, however, that destruction is occurring at an alarmingly rapid rate of speed and that mechanisms to hold it in check are sadly inadequate. The rate of destruction is clearly indicated by the GAO investigation requested by Senator Domenici and colleagues. The GAO found that 44,000 of 136,000 sites recorded in the Four Corners area have been vandalized. That constitutes 32% of the population of sites considered. Although understaffed, federal land managing agencies in the Four Corners states still detected and reported 1,222 incidents of vandalism in a 5 1/2 year period previous to 1986. Rates of vandalism in certain parts of the southwest and in the Mimbres Valley area of southwest New Mexico in particular are much higher. In the Mimbres area pottery is extremely valuable. As a result, the intact site is the exception rather than the rule. Implications of the present rate of destruction in this century are clear. Unless something is done to stop the rate of destruction of archaeological sites, those resources which contain sufficient scientific information to meaningfully contribute to our knowledge of prehistory will be destroyed. We and our progeny will all be deprived of that contribution by the thoughtless and greedy acts of a few individuals.

It was mentioned in the first portion of this letter that protection of archaeological resources is incumbent not only upon new legislation but also upon enforcement of existing legislation. Senator Domenici's efforts along these lines are duly noted and appreciated. The President's budget for Fiscal Year 1989, however, proposes drastic cuts in funding for the management of cultural resources. We at NMAC, strongly support the Senator's position that funding cuts are unwarranted when the GAO has clearly demonstrated the extent of archaeological vandalism which is taking place at present. We, at NMAC, urge ratification of S.1314 and S.1985 and the continued funding of our nation's cultural resource management programs at levels adequate to protect these diminishing resources.

Sincerely,
NEW MEXICO ARCHAEOLOGICAL COUNCIL

John C. Acklen

John C. Acklen
President

JCA/lmc
Enclosure

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

31 AUG 1988

Honorable Ernest F. Hollings
Chairman
Subcommittee on Appropriations for the
Departments of Commerce, Justice, and
State, the Judiciary, and Related
Agencies
Committee on Appropriations
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Senate Report 100-182, which accompanied H.R. 2763, the bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for 1988, included instructions for the Department of Justice to report on its enforcement of the Archeological Resources Protection Act. The enclosed report indicates that the Department is making serious efforts to enforce the Act. Weaknesses in existing law, normal jurisdictional problems, the sparsity of case referrals, low staffing levels in many areas of archeological interest, and competing priorities limit the resources the Department can effectively apply to the problem.

If you have any questions regarding this report, please do not hesitate to contact this office.

Sincerely,

Thomas M. Boyd
Acting Assistant Attorney General

Enclosure

Enforcement of Archeological Resources Protection Act

The Department of Justice enforces the Archeological Resources Protection Act of 1979 (ARPA) in several ways. Through the U.S. Attorneys and the Federal Bureau of Investigation (FBI), the Department prosecutes those who loot federal archeological sites and participates in investigations of ARPA violations.

The U.S. Attorneys have the primary responsibility for prosecuting ARPA violations. While the Land and Natural Resources Division receives, on occasion, ARPA referrals, they typically refer these cases to the U.S. Attorneys for handling at the district level. Most cases are referred to the U.S. Attorneys from the National Park Service (NPS), the Bureau of Land Management (BLM) and the Forest Service (FS). Referrals have also been received from the Department of the Army, U.S. Customs Service, Bureau of Indian Affairs, Tennessee Valley Authority and the FBI.

The U.S. Attorneys evaluate each referral to determine its prosecutorial merit. If the elements necessary for criminal prosecution under ARPA exist, the U.S. Attorneys will go forward with the case. For instance, in 1987 the Arizona U.S. Attorneys' office was successful in prosecuting an amateur archeologist who removed a mummified baby and attendant grave goods, dating back to 600 A.D., from FS land. These artifacts have a scientific value of between $45,000 and $75,000. The Utah office prosecuted two substantive cases: United States v. Earl Shumway, where the defendant illegally excavated an archeological site and United States v. Alan Buddy Black, where the defendant was indicted for aiding and abetting in the sale of prohibited artifacts. Additionally, the U.S. Attorneys' office in New Mexico successfully negotiated the return of a Zuni War God which was being advertised for auction.

Particularly in the districts which have a concentration of archeological sites, the U.S. Attorneys are committed to enforcing the ARPA provisions. For example, the U.S. Attorney for the District of Arizona, not only actively pursues litigation referrals, but also has undertaken proactive investigations and participated in undercover operations. Further, the U.S. Attorney from the District of Colorado has assigned a Special Assistant U.S. Attorney to the Four Corners Region to concentrate on ARPA prosecutions. A commitment of this nature is extraordinary and is warranted only in areas with high concentrations of protected sites and a pervasive commercial looting problem.

Despite their commitment to fighting this crime, the ability of the U.S. Attorneys to prosecute ARPA violations is seriously hampered by several factors. Importantly, the provisions of ARPA make it difficult to obtain the conviction of a suspected looter. The statutory requirements regarding proof of criminal intent and the origin and value of an artifact make it exceptionally difficult to build a strong case. In fact, prosecutors, as well as law enforcement officials, generally find it easier and more effective to prosecute cases under statutes prohibiting theft or destruction of government property.

An equally frustrating limitation on the U.S. Attorneys' ability to file suit results from competing priorities. The merits of ARPA referrals must be evaluated and given a priority relative to other criminal referrals involving violent crimes, drug trafficking, official corruption, etc. Thus, the U.S. Attorneys are able to pursue only well developed cases with clear identification of looters and minimal proof problems.

Efforts are being made to strengthen U.S. Attorneys' prosecution of ARPA violations. Bills introduced by Senator Domenici and Congressman Gejdenson would amend ARPA and remove unnecessary obstacles to ARPA prosecutions. Further, The U.S. Attorneys are taking steps to make their attorneys more effective in this area. For example, the U.S. Attorney for the District of New Mexico actively participates in a joint management group to preserve the ruins connected to the Chaco culture and will participate in a group formed to increase effectiveness in investigating ARPA violations. He also sent an experienced Assistant U.S. Attorney to ARPA training at Canyon De Chelly which was offered by the Federal Law Enforcement Training Center.

With regard to the investigation of archeological looting on public lands, the FBI shares investigative jurisdiction with the

Departments of Interior and Agriculture. On Indian lands, the FBI has exclusive jurisdiction. On other public lands, NPS, BLM and FS have primary responsibility for law enforcement and investigation under ARPA. The FBI assists those agencies when requested.

The FBI receives infrequent referrals for investigation, however, they evaluate each complaint or referral to determine the potential outcome of an investigation. The FBI bases its evaluation on the prosecutor's guidelines in that district, i.e., the likelihood of prosecution based upon the evidence available, the availability of a defendant and the competing workload. As with the U.S. Attorneys, the FBI's participation is limited by the drawbacks of the ARPA requirements of proof.

In addition to assisting in investigations, the FBI provides technical advice and assistance to the NPS, BLM and FS. For example, in the New Mexico region, the FBI assisted in installing sensors in certain sites which have shown high levels of digging. In fact, while installing sensors in the Jemez Mountains, the agent discovered a looter actively digging at a site. After considerable effort by an Assistant U.S. Attorney, the defendant pled guilty to felony charges under ARPA shortly before trial (United States v. Gary Lee Brown).

Despite the FBI's interest in protecting archeological resources, they are forced to make choices in the allocation of investigative resources. Available FBI resources must be directed against violent crimes, such as child sexual abuse on Indian reservations, organized crime, drug trafficking and other national law enforcement priorities. As a result, much of the ARPA investigative burden must be borne by the NPS, BLM and FS.

In total, based on a survey of U.S. Attorneys and FBI offices, the Department spent approximately $200,000 on prosecution and investigation of ARPA cases in 1987. However, it is important to note that this dedication of resources is dependent upon the number of referrals received for both prosecution and investigation. Moreover, the Department's participation in these referrals is limited by the government's ability to build a case and manage the competing demands placed on limited resources.

Senator **Domenici**. Let me turn to this second bill for a moment, S. 1985, a bill to improve the protection and management. The administration is opposed while they are in favor of the basic change in the criminal law.

Can we suggest or ask if you have seen this GAO report with reference to this problem that is before us, the problem of protecting and preserving? I assume you have.

Dr. **Keel**. Yes, sir.

Senator **Domenici**. I understand now that you oppose the bill we are referring to, S. 1985. The content of that bill is actually taken from recommendations that the GAO made after an exhaustive study. Not every recommendation was used, but two of them. On page 35 the GAO recommended that the Secretaries of the Interior and Agriculture direct the heads of the respective agencies to develop an agency-wide guideline that provides field office criteria on when to prepare looting incident reports, the amount of the disturbance, and how recent the incident, and secondly require field offices to periodically revisit recorded sites.

It seems to me that is the basic and fundamental thing we ought to be doing. I wonder why you recommend against it, Senate Bill 1985.

Mr. **Rogers**. Senator Domenici, we do not recommend against carrying out the activity, but rather that it is not necessary to have legislation in order to do so. Dr. Keel can respond in detail.

Dr. **Keel**. We have done that, Senator. We have already put out instructions to the field and not only, sir, in the National Park Service, but across all of the Interior.

Senator **Domenici**. Have you have issued this kind of directive since this report?

Dr. **Keel**. Actually, no, sir. That requirement had been out in the field prior to those hearings.

Senator **Domenici**. The other recommendation that they made, on page 50, is incorporated in the bill, which includes developing plans for surveying those areas not scheduled for project development, prioritizing the areas based on archeological resource potential, and then preparing a schedule for surveying those areas having the highest priority.

You do not oppose that; you just do not want it in statute form, is that right?

Dr. **Keel**. That is correct, sir. We already have that requirement under the National Historic Preservation Act.

Senator **Domenici**. So, from our standpoint as a Committee, to the extent that we would feel it might be good to statutorily recognize these responsibilities, you are not telling us that they are inconsistent with the prudent safeguarding of these resources, but rather you prefer that it not be a statutory mandate, is that correct?

Dr. **Keel**. That is correct, sir.

Mr. **Rogers**. Exactly.

Dr. **Keel**. Senator, I also have a document I would like to introduce into the record for the committee's review regarding a recent analysis in-house of the looting problem across the country.

Senator **Bingaman**. We would be glad to include that.

[The information referred to follows:]

DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

Archeological Assistance Division
Washington Office
Briefing Statement
28 January 1988

Subject: The Growing Problem of Archeological Looting

Issue: Many have discerned the problem presented by widespread destruction of important archeological sites. Some of this destruction occurs to sites on provate land and cannot be stopped by Federal action. However, destruction also is occurring on Federal land in violation of several statutes, most notably the Archaeological Resources Protection Act. Destruction is occurring throughout the country.

Status: The Archeological Assistance Division of the National Park Service (NPS) collects statistical information about the nature and extent of archeological looting and vandalism on Federal land for the Secretary of the Interior's annual report to Congress on Federal archeological activities. Information is on hand for FY 1985 and FY 1986. We have information from all major land managing Federal agencies. Categories for which data are available include: the number of reported incidences of looting or vandalism, the number of arrests or citations for these activities, the number of criminal convictions, etc.

These data are listed in Enclosures 1 (FY 1985) and 2 (FY 1986). A brief analysis of these data is presented below. We would be happy to discuss the possible interpretations of the data further. We have begun the process of collecting similar information for FY 1987.

Looting and Vandalism

Data from the largest land managing agencies for FY 1985 are presented on Enclosure 1. There were over 430 incidents of vandalism to archeological sites reported on Federal land in FY 1985. This includes both casual, possibly unintentional destruction of resources, as well as systematic commercial looting of valuable artifacts for sale. The United States Forest Service (FS) reported nearly sixty times more incidents of vandalism than the Fish and Wildlife Service (FWS), more than seven times more than the NPS, and over twice as many as the Bureau of Land Management (BLM). It is likely that this disparity results from two factors. First, the agencies are responsible for different amounts of acreage, those with more land are likely to have more archeological sites and greater amounts of looting occurring. Another factor, however, may be that the FS has a more effective system for monitoring its archeological sites and damage to them.

Comparison of the acreage controlled by these agencies shows that the FS has approximately 191 million acres, the FWS has approximately 87 million acres, the NPS approximately 75 million, and BLM approximately 320 million. If looting is distributed relatively evenly and at the rate indicated by the FS report, the FWS would have had about 100 incidents, the NPS about 90, and the BLM 390 incidents. Thus, the reported incidents for FY 85 may represent only one quarter or less of the actual incidents of vandalism, if the FS report is accurate. Given the remoteness of many archeological sites and the relatively infrequent security inspections that many agencies can provide for known archeological sites, we can be certain that the reported incidents do not represent the true extent of the problem.

Within the Department of Defense, the distribution of reported cases of looting is very disproportionate among the services. The Corps of Engineers which controls relatively little acreage has reported the greatest number of looting cases. The Air Force which controls much of the land within Defense reported no cases. This may not be the actual situation regarding the occurrence of archeological looting on Department of Defense lands.

The FY 1986 data show a sharp increase among major land managing agencies to 615 in the number of reported incidents of looting. All agencies except the FS show this increase which probably is due to more effective reporting and increased cooperation between agency archeologists and law enforcement officers. The increase also probably reflects the heightened concern about the problem of looting that has developed recently. The decrease in the number of incidents reported by the FS is puzzling and we intend to consult with FS officials about the reasons for it.

The increase in reported incidents is not accompanied by similar increases in the number of citations or arrests for looting or in prosecutions or convictions for these crimes. Enclosure 3 describes the relationships among these aspects of the looting problem graphically. The reported incidents of looting or vandalism increased by 42% while the number of arrests or citations for these activities declined by almost 50% (71 in FY 1985, 42 in FY 1986). Prosecutions or convictions remained at about the same level during both years.

Prosecutions

The limited extent to which vandalism is being discovered and prevented through law enforcement is evident from the totals presented on all the enclosures. Of the 432 incidents reported for FY 1985, only 15% were discovered in time for an arrest to be made or a citation issued. Less than half of the arrests or citations resulted in any criminal convictions and only about a third of the convictions were for felonies. It is important to note that convictions have been made using a variety of statutes in addition to ARPA. It appears that in certain situations law enforcement officials have found other statutes easier to prosecute under than ARPA. For the FY 1986 data the discrepancy between reported incidents and citations or arrests is even larger.

These numbers must be interpreted with caution because some of the information about convictions is from cases that originated in earlier fiscal years. However, the general trends and relationships seem clear. Very few incidents of vandalism are discovered in time to apprehend vandals or looters, much less prevent the damage to the archeological sites. Moreover, the trend seems to be that the situation is becoming worse. The ratio of incidents to arrests/citations is enlarging and the number of arrests/citations is actually declining, perhaps reflecting the increasing workload on law enforcement officers in the field.

LOOT Clearinghouse

The Archeological Assistance Division is beginning to collect summary information about cases in which vandalism or looting are prosecuted. These summary records are being entered into a computer-based clearinghouse named the Listing of Outlaw Treachery (LOOT). This effort is aimed at providing a central place for those seeking information and advice on how to pursue prosecutions. Our current listing is incomplete, but we actively are collecting information about additional cases. At present, we have summary information, including sources that can be contacted for more detailed information, about the following cases:

Year	Agency	Location
1981	BLM	South Warner Valley (Site 35LK94), Oregon
1983	NPS	Mesa Verde National Park, Colorado
1983	FWS	Malheur National Wildlife Refuge, Oregon
1983	BLM	Lonetree, Wyoming
1984	NPS	Richmond Battlefield Park, Virginia
1984	NPS	Petersburg National Battlefield, Virginia
1985	BLM	Hells Canyon National Recreation Area, Idaho
1984	FS	Manti Lasal National Forest, Utah
1986	NPS	Biscayne National Park, Florida
1986	BLM	Malheur County, Oregon
1986	FS	Chippewa National Forest, Minnesota
1986	BIA	Unitah and Ouray, Fort Duchesne, Utah
1987	FS	St. Francis National Forest, Arkansas

Our ability to provide this information is due to the information gathering and analysis function served for the Secretary of the Interior by the Departmental Consulting Archeologist and the Archeological Assistance Division, NPS. Our ability to provide in a more timely fashion such information, as well as other details about Federal archeological activities will be enhanced greatly through the use of the National Archeological Database being developed at present.

We hope that you find this information helpful. For additional details or background contact Dr. Bennie C. Keel, Assistant Director, Archeology and Departmental Consulting Archeologist on 343-1876 or Dr. Francis P. McManamon, Chief, Archeological Assistance Division, National Park Service on 343-4101.

FNP:FPM:343-4101:01/28/88
AAD/Bf-Loot02

ENCLOSURE 1

FY 1985 FEDERAL ARCHEOLOGICAL ACTIVITIES
VANDALISM AND ARPA
ARCHEOLOGICAL ASSISTANCE DIVISION
NPS/DOI
FEBRUARY 9, 1987

DEPARTMENTS		# OF CASES OF VANDALISM	# OF ARRESTS	# OF CITATIONS	# OF CRIMINAL CONVICTIONS	# OF MIS-DEMEANORS	# OF FELONIES	# OF SECOND OFFENSES
AGRICULTURE								
	FS	233	9	13	10	10	8	2
DEFENSE								
	AIR FORCE	0	0	0	0	0	0	0
	ARMY	4	2	(U)	(U)	0	0	0
	ARMY CORPS	35	0	12	0	0	0	0
	MARINES	0	0	0	0	0	0	0
	NAVY	0	0	0	0	0	0	0
ENERGY	.	(I) 2	0	0	0	0	0	0
INTERIOR								
	BIA	24	0	0	0	0	0	0
	BLM	100	11	6	12	11	1	0
	BOR	0	0	0	0	0	0	0
	FWS	4	0	0	0	1	0	0
	NPS	31	3	13	9	9	0	0
TVA		0	2	0	1	1	0	0
VETERANS		1	0	0	0	0	0	0
TOTALS		432	27	44	32	32	9	2

(U)
UNAVAILABLE

(I)
INCOMPLETE

VANDALISM Feb 5. 1987

ENCLOSURE 1
page 2

FY 1985 FEDERAL ARCHEOLOGICAL ACTIVITIES COSTS, PENALTIES, AND REWARDS

ARCHEOLOGICAL ASSISTANCE DIVISION
NATIONAL PARK SERVICE
DEPARTMENT OF THE INTERIOR
FEBRUARY 9, 1987

DEPARTMENTS	AGENCIES	AMOUNT OF RESTITUTION COSTS	$ VALUE OF ARCHEOLOGICAL RESOURCES SEIZED BY FEDERAL GOVERNMENT	$ VALUE OF PERSONAL PROPERTY SEIZED BY FEDERAL GOVERNMENT	# OF CIVIL PENALTIES APPLIED	$ COLLECTED IN FINES	$ GIVEN IN REWARDS
AGRICULTURE							
	FS	$90085.00	$1512000.00	$15500.00	6	$13100.00	$500.00
DEFENSE							
	AIR FORCE	$0.00	$0.00	$0.00	0	$0.00	$0.00
	ARMY	(U)	$50.00	$50.00	(U)	(U)	(U)
	ARMY CORPS	$0.00	$1500.00	$8.00	2	$600.00	$0.00
	MARINES	$0.00	$0.00	$0.00	0	$0.00	$0.00
	NAVY	$0.00	$0.00	$0.00	0	$0.00	$0.00
INTERIOR							
	AS/T&IA						
	BIA	$0.00	NA	NA	0	$0.00	$0.00
	BLM	$14000.00	$40720.00	$3200.00	7	$3336.00	$0.00
	BOR	$0.00	$0.00	$0.00	0	$0.00	$0.00
	FWS	$0.00	$0.00	$0.00	0	$25.00	$0.00
	NPS	$0.00	$250.00	$1400.00	0	$6160.00	$0.00
	OSM	NA	NA	NA	NA	NA	NA
TVA		$0.00	$0.00	$0.00	0	$500.00	$150.00
VETERANS		$0.00	NA	NA	0	$0.00	$0.00
TOTALS		$104085.00	$1554520.00	$20158.00	15	$23721.00	$650.00

QUEST 21A

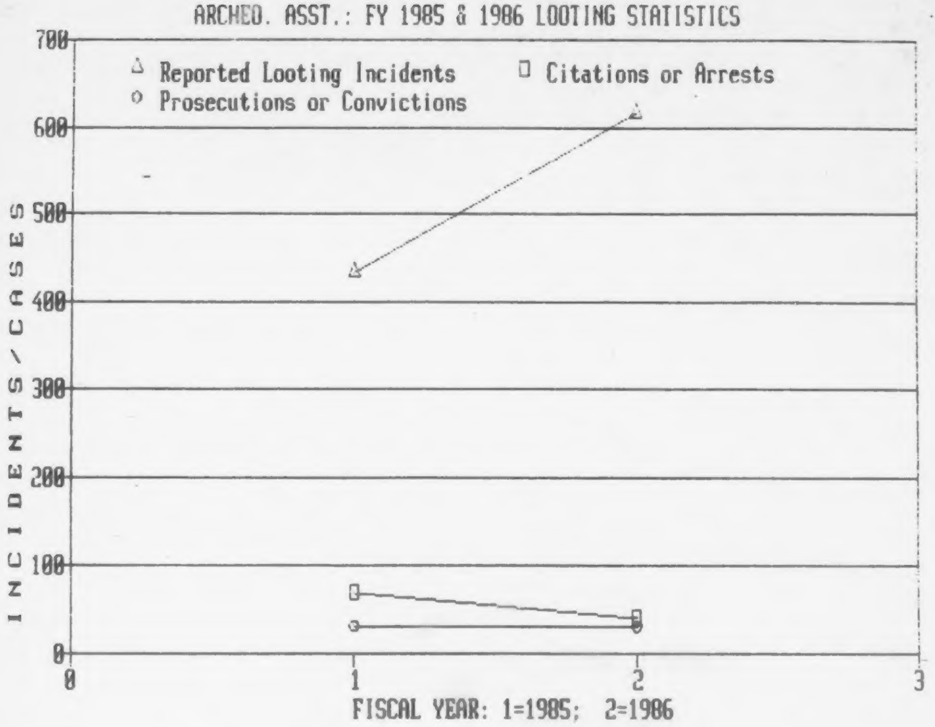
ENCLOSURE 2

FY 1986 FEDERAL ARCHEOLOGICAL ACTIVITIES
VANDALISM AND ARPA
ARCHEOLOGICAL ASSISTANCE DIVISION
NATIONAL PARK SERVICE
SEPTEMBER 22, 1987

1 DEPARTMENTS	2 AGENCIES	3 DOCUMENTED VIOLATION OF ARPA, ANTIQUITIES ACT OR OTHER STATUES	4 ARRESTS MADE FOR VANDALISM OR LOOTING	5 CITATIONS ISSUED FOR VANDALISM OR LOOTING	6 PROSECUTIONS IN CASES OF VANDALISM OR LOOTING	7 CONVICTIONS UNDER APRA	8 MISDEMEANOR CONVICTIONS UNDER APRA	9 FELONY CONVICTIONS UNDER ARPA
AGRICULTURE								
	FS	86	0	13	1	1	1	0
DOD								
	AIR FORCE	1	0	0	0	0	0	0
	ARMY-OCE	6	0	2	0	0	0	0
	ARMY CORPS	45	2	2	2	2	0	2
	MARINES	0	0	0	0	0	0	0
	NAVY	0	0	0	0	0	0	0
INTERIOR								
	BIA	27	0	0	0	0	0	0
	BLM	349	2	6	9	4	0	0
	BOR	3	0	0	0	0	0	0
	FWS	11	0	0	0	0	0	0
	NPS	67	1	14—	6	0	0	0
TVA		20	0	0	2	2	2	0
VA		0	0	0	0	0	0	0
TOTALS		615	5	37	20	9	1	2

1 DEPARTMENTS	2 AGENCIES	10 SECOND ARPA OFFENSES	11 PROSECUTIONS UNDER AUTHORITIES OTHER THAN ARPA	12 AMOUNT COLLECED IN CRIMINAL FINES	13 CIVIL PENALTIES UNDER ARPA SEC. 7	14 AMOUNT COLLECTED IN CIVIL PENALITIES	15 COSTS FOR RESTORING ARCHEOLOGICAL RESOURCES UNDER APRA OR OTHER AUTHORITY	16 REWARDS GIVEN UNDER APRA SEC. 8	17 COMMERICAL VALUE OF ARTIFACTS SEIZED AND RETAINED BY GOVERNMENT	18 COMMERICAL VALUE OF PROPERTY SEIZED AND RETAINED BY GOVERNMENT
AGRICULTURE										
	FS	0	11	$550.00	$1.00	$500.00	$101700.00	$200.00	$400.00	$0.00
DOD										
	AIR FORCE	0	0	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
	ARMY-OCE	0	2	$2300.00	$0.00	$0.00	$0.00	$0.00	$100.00	$0.00
	ARMY CORPS	0	2	$300.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
	MARINES	0	0	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
	NAVY	0	0	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
INTERIOR										NA
	BIA	0	0	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
	BLM	0	7	$7846.00	$3.00	$2175.00	$22928.00	$0.00	$89344.00	$360.00
	BOR	0	0	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
	FWS	0	2	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
	NPS	0	5	$2025.00	$0.00	$100.00	$431.00	$0.00	$200.00	$30000.00
TVA		0	0	NA	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
VA		0	0	$0.00	NA	NA	NA	NA	NA	NA
TOTALS		0	29	$13021.00	$4.00	$2775.00	$125059.00	$200.00	$90044.00	$30360.00

ENCLOSURE 3


ARCHEO. ASST.: FY 1985 & 1986 LOOTING STATISTICS
△ Reported Looting Incidents
□ Citations or Arrests
○ Prosecutions or Convictions
INCIDENTS / CASES
700
600
500
400
300
200
100
0
0
1
2
3
FISCAL YEAR: 1=1985; 2=1986

Mr. **Rice**. Mr. Domenici, I would like to respond on behalf of the Forest Service to your two proposals. We also agree, and have in place or are putting into place items that would adequately follow up on that GAO report. We just do not feel we need any additional statutory legislation to allow us to do that.

Senator **Domenici**. Let me just ask quickly two or three more questions of Mr. Rogers. You made the statement, "I think that looting of the Nation's historic and prehistoric heritage from public and private lands is not only a despicable thing, but something that is growing to crisis proportions, and we want to do something about it."

I assume that is still your assessment, is that correct?

Mr. **Rogers**. Yes, sir.

Senator **Domenici**. Now, the Justice Department declined to appear today, as I understand it. Is that correct, Mr. Chairman?

Senator **Bingaman**. I believe that is correct.

Senator **Domenici**. Maybe they feel they are too busy or something. I do not know.

But let me ask you, Mr. Rogers, professional archeologists with the Department of the Interior have reported that they had only limited success in interesting the Department of Justice in prosecuting violations under this act. Would you tell us what contacts you have had with the Department of Justice regarding ARPA.

Mr. **Rogers**. If I may, again, Dr. Keel is directly responsible for that so, perhaps he can respond.

Senator **Domenici**. Now, I do not mean that you should have some log. I just want to know what is the relationship as you assess it. Have you had meetings with them asking why we cannot prosecute more? What is wrong with the process?

Dr. **Keel**. Yes, sir, I have had meetings, especially with some of the Assistant U.S. Attorneys in various jurisdictions, and their general response to me has been we would be happy to prosecute if we could get the investigations done. It seems to me one of their problems is getting a case built by criminal investigators.

As a matter of fact, we currently have made arrangements to provide an investigator from the Department's Office of the Inspector General on a specific case because the FBI seems to be too busy doing other things.

Senator **Domenici**. From your information, do you know whether the Department of Justice maintains statistics on the number of ARPA investigations conducted?

Dr. **Keel**. I do not know that for a fact, sir.

Senator **Domenici**. How about the indictments or information returns, convictions and sentences?

Dr. **Keel**. No, sir, I do not know what kind of statistics Justice keeps.

Senator **Domenici**. In 1988 the Appropriations Committee provided a million dollars to the Department of Justice to ensure ARPA is properly enforced. These funds were to be used to arrest and prosecute persons trafficking in archeological artifacts. Have these funds improved ARPA enforcement by the Department of Justice, if any, pursuant to your observations?

Dr. **Keel**. I do not have any basis to make an observation one way or the other.

Senator DOMENICI. Well, from your perspective is this a high priority item or not?

Dr. KEEL. Oh, absolutely, Senator. Absolutely. I am convinced that if we can aggressively prosecute these vandals and looters and get good media coverage of these convictions, it is going to serve as a tremendous deterrent. I am afraid as long as we do not have that kind of forceful enforcement of the act, people are going to continue to believe we are not serious about preserving our resources.

Senator DOMENICI. This is my last question, Mr. Chairman. I am taking too much time. Now, you said absolutely and I gather you are speaking for your department. How about the Department of Justice from what you have seen? Is it a high priority?

We know they are terribly busy, but we have even given them a special amount and earmarked it. Is it in your opinion a high priority with them or do we need some additional help on that end?

Dr. KEEL. I would suggest, sir, that you might continue to suggest to the Justice Department that they pay more attention to you, to this act.

Senator DOMENICI. I not only hear your words, but I read your countenance, and I suggest that you do not like to talk about the other Department, but you are suggesting we ought to push them a little bit. I thank you for your comments.

Thank you, Mr. Chairman.

Senator BINGAMAN. Thank you.

Let me go on to ask a round of questions or just a very few questions on the remaining bills.

S. 2545, to redesignate the Salinas National Monument, you indicated support for that. Oh, I apologize, we did not have your testimony, Mr. Rice.

Mr. RICE. I just wondered, Senator, if you need me anymore. I will slip out because we do not have testimony on these particular bills.

Senator BINGAMAN. You do not have involvement in these remaining bills. I think you can be dismissed, and we appreciate your being here very much.

Mr. RICE. Thank you very much.

Senator BINGAMAN. Did you have any other questions of him, Senator Domenici?

Senator DOMENICI. No, thank you.

Senator BINGAMAN. Mr. Rogers, let me ask you now, on 2545 you indicate that the Department of Interior supports the bill to redesignate the Salinas National Monument, is that right?

Mr. ROGERS. Yes, Mr. Chairman.

Senator BINGAMAN. S. 2750, the one to authorize a study on ways to commemorate the contributions of Georgia O'Keeffe, you have no problems with that legislation either as I understand it?

Mr. ROGERS. That is correct.

Senator BINGAMAN. I should indicate I certainly support that as well. S. 2767 would authorize the study of the history and culture of the Warm Springs area. You have no problem with that legislation?

Mr. ROGERS. That is correct.

Senator BINGAMAN. So, the only one we have some disagreement on is the Aztec Ruins National Monument which is S. 2617. I understand the Department's position there is that you oppose that because the planning process has not been completed. It is not that you oppose the bill on its merits, but you do think that the planning process should be completed before we take action.

Would you agree that the resources at Aztec that are involved here are significant and deserve protection?

Mr. Rogers. Well, there is no question about that, Senator. We do agree with that.

Senator Bingaman. And what are the issues being addressed in this general management plan as related to this Aztec Monument?

Mr. Rogers. The general management plan that is now under preparation is addressing issues of protecting resources inside the present park boundary and the possibility of adding other resources just beyond the park boundary that have a direct relationship with those that are inside the boundary and also the possible acquisition of lands to develop interpretive and administrative and maintenance and parking facilities.

It is shown on the chart here to my left.

Senator Bingaman. To your knowledge, is that local community in support of the proposed expansion?

Mr. Rogers. We understand that the local community appears to be favorable to the proposal, although it is also our understanding that there are some individuals who want more information, who want to look into questions like rights of use and occupancy and life estates and so forth.

We are going to seek public comment on the plan and expect to have additional comments not only from those local individuals, but from national organizations.

Senator Bingaman. When do you expect this general management plan to be completed?

Mr. Rogers. It should be done in about six months.

Senator Bingaman. Could you be more specific as to some of the other options you might consider in this management plan other than the expansion.

Mr. Rogers. Well, we could. In all general management plans one thing we consider is the continuation of the existing condition. Under a status quo option in this park that we would depend upon the city to correct our parking lot access problem. They would need to acquire two different buildings and realign the road in order to do that.

Under that alternative we would also be remodeling the visitors' center within the national park itself, and we would undertake minimum site rehabilitation and make trail improvements.

Another alternative would be to expand the boundaries between about 27 and 28 acres and to provide for the parking area expansion and solution of the traffic problem that I mentioned earlier within the park boundary. We would work with local landowners and local governments to protect the basic resources that are outside the park boundary as well as those inside.

We would promote the establishment of a nonprofit land trust in order to accept gifts of land or interests in land to protect those critical archeological resources. We would also need to improve drainage within the boundary of the park with improved piping, and we would seek to cooperate with adjacent landowners in order to minimize drainage problems from a nearby irrigation ditch that are causing some of the impact upon the resource. Again we would remodel and expand the visitors' center under that alternative.

However, if we expand the visitors' center within the present site, there could be a serious impact on the historic structure itself because that structure, the visitors' center itself is a historic structure.

Senator BINGAMAN. All right. That is really all the questions I had.

Senator Domenici, why do you not go ahead and ask your questions?

Senator DOMENICI. Thank you very much, Mr. Chairman.

Aside from the archeological bill, I have brief statements on the remaining bills including O'Keeffe. I would ask if you would make those a part of the record.

Senator BINGAMAN. I surely will.

[The prepared statement of Senator Domenici follows:]

PETE V. DOMENICI
NEW MEXICO

United States Senate
WASHINGTON, DC 20510

COMMITTEES:
BUDGET
APPROPRIATIONS
ENERGY AND NATURAL RESOURCES
AGING

STATEMENT OF SENATOR PETE V. DOMENICI ON NEW MEXICO PARKS LEGISLATION

Subcommittee on Public Lands, National Parks and Forests
Committee on Energy and Natural Resources
United States Senate

September 14, 1988

Mr. Chairman,

Thank you for holding hearings on the various bills that we have before us affecting units of the National Park System in New Mexico. It is a tribute to the people of New Mexico that so many of them want to preserve portions of our State so that future generations can continue to enjoy the New Mexico that we know and love today.

The Subcommittee will also consider three bills to improve the protection of archaeological resources on federal land. I have a separate statement on those measures.

I would like to take this opportunity to explain my reasons for supporting the New Mexico park bills before the Subcommittee. I am pleased to be a sponsor of one of these measures and an original cosponsor of two others.

GEORGIA O'KEEFFE STUDY

S. 2750, which I introduced, would authorize the Department of the Interior to conduct a feasibility study on methods to commemorate the nationally significant contributions of Georgia O'Keeffe.

Georgia O'Keeffe was one of the most important and acclaimed American artists of the twentieth century. Her paintings of flowers, desert landscapes, bleached animal bones, and flowing abstractions grace museums throughout the Nation.

Many of her paintings were of the landscape of New Mexico. Ms. O'Keeffe first came to New Mexico in 1929 and moved there permanently in 1946. She lived in the little village of Abiquiu until her death at age 98 in 1986.

Ms. O'Keeffe's art is a testament to her love of New Mexico. The hills near Alcalde, the Ranchos Church at Taos, Taos Pueblo, Bear Lake, the Chama River, the cliffs at Abiquiu, and of course, Ms. O'Keeffe's beloved Cerro Pedernal were all captured on her canvases.

For the past year, I have been working with a group of art lovers and the heirs of Ms. O'Keeffe to develop a proposal to recognize and commemorate the contributions that Ms. O'Keeffe made to American art. The group came up with a number of ideas, including renaming the National Endowment for the Arts' Museum Grant Program as the "Georgia O'Keeffe Museum Grant Program," naming a geographic feature that Ms. O'Keeffe painted after her, establishing a Georgia O'Keeffe Endowed Chair in Art at the University of New Mexico, and establishing a Georgia O'Keeffe wing at a museum in Santa Fe.

The most exciting proposal to come out of the group, though, was to create a "landscape museum."

A landscape museum, as opposed to the usual museum created of bricks and mortar, would consist of the physical terrain and features from which Ms. O'Keeffe drew much of her inspiration for her works. The features of the landscape would be pointed out to visitors, their significance described, and their relationship to Ms. O'Keeffe's works explained. There would be observation points from which travellers could observe the scenes that Ms. O'Keeffe painted.

S. 2750 would direct the Department of the Interior to undertake a study to determine the most appropriate way for the Federal Government to commemorate the contributions that Georgia O'Keeffe made to the world of art. In particular, it would direct the Interior Department to evaluate the feasibility of creating a landscape museum to present the New Mexico that Ms. O'Keeffe painted to the public.

The study would be completed within one year of the date on which funds for the study are appropriated.

SALINAS NATIONAL MONUMENT REDESIGNATION

S. 2545, of which I am an original cosponsor, would redesignate Salinas National Monument as "Salinas Pueblo Missions National Monument." S. 2545 is a companion measure to H.R. 3541, which was introduced by Representative Lujan and passed by the House of Representatives in July.

Salinas National Monument encompasses 1,077 acres in three units: Gran Quivira, Abo, and Quarai. These units are named after the ruins of the major prehistoric pueblo contained in each unit.

The National Park Service's interpretive theme at Salinas is "Indian Meets European," and the monument seeks to give visitors a sense of life in seventeenth century New Mexico.

The main attractions at Salinas are the four large, original seventeenth-century Spanish churches. Only six such structures exist in all of the United States, and four of them are found at Salinas. The four large churches were built by Franciscan friars between 1629 and 1659.

Characterized by red sandstone, the ruins of Abo are dominated visually by the ruins of the San Gregorio de Abo Church, considered to be one of the finest and most architecturally significant churches in the Spanish frontier region of New Mexico.

As at Abo, Quarai is characterized by red sandstone, but of a deeper hue. The Church of Nuestra Senora de la Purisma Conception de Cuarac with its convento and the surrounding pueblo mounds are sheltered in a valley nourished by a spring.

Gran Quivira is isolated high on a mesa. Exposed to the elements, with views of the distant mountains and plains, the warm gray limestone structures of Gran Quivira take on a grand, austere aspect. Gran Quivira was the site of a Indian Pueblo that included over 300 rooms and 6 kivas. The Spanish settlers constructed a large church and convento known as San Buenaventura and the smaller Church of San Isidro at Gran Quivira.

Salinas was abandoned by the Pueblo Indians and the Spaniards in 1670. Thus, Salinas is unique, as it represents a century frozen in time. It provides evidence of seventeenth century Spanish-Indian interaction and affords unusual opportunities for research and interpretation.

When originally designated in 1909, Salinas was proclaimed as the Gran Quivira National Monument. When the monument was enlarged in 1980, the name was changed to Salinas National Monument in recognition of the salt lakes that have been of great importance in the settlement and trade of the region.

S. 2545 would redesignate Salinas National Monument as "Salinas Pueblo Missions National Monument."

Redesignating the monument as Salinas Pueblo Missions National Monument will emphasize the historical significance of the unit and will present visitors and potential visitors with a more accurate description of the site.

However, renaming Salinas is just one step in making Salinas more meaningful and accessible to the public.

Since it was created in 1980, Salinas has not received the base funding sufficient to meet its needs for staff, site stabilization, and maintenance, as spelled out in its general managment plan.

In fact, this year Salinas did not even have adequate funds to keep the monument open at all times. This past winter, the National Park Service had to close down two of the three units.

The need for funds is especially critical in the area of ruins stabilization and maintenance. Approximately 50% of the structures at Salinas require emergency stabilization in order to assure that these unique and irreplaceable buildings are preserved. To fail to provide for a ruins maintenance and cultural resource management program is a direct contradiction of the management plan for the area, the reason for establishment of the unit, and the policies and guidelines of the National Park Service.

This year, Salinas received $314,200 for park management. That represented a reduction from last year's level even before inflation.

For the past two years, I have requested the Congress to provide adequate funding for Salinas. This year the Interior Appropriations bill, which is awaiting the President's signature, provides an additional $100,000 to allow Salinas to remain open on a full-time basis and to conduct much-needed work to protect the ruins at Salinas.

AZTEC RUINS NATIONAL MONUMENT

S. 2617, of which I am an original cosponsor, would enlarge the boundaries of Aztec Ruins National Monument.

Aztec Ruins currently encompasses 27 acres that contain a large Indian pueblo consisting of timber and masonry buildings constructed in approximately the twelfth century. Among the most notable features are a massive, 3-story, 500-room, terraced pueblo covering 2 acres, a Great Kiva, and a tri-walled structure known as Hubbard Ruin.

The name "Aztec Ruins" is a misnomer. Early settlers attributed the ruins to the Aztecs of Mexico, but in fact they are unrelated to them. Aztec Ruins is actually of Anasazi origin and shows influence from both the Chacoan and Mesa Verde peoples.

The purpose of S. 2617 is to incorporate additional lands critical to the preservation of the existing monument and to add significant archaeological resources located on adjacent private land.

Irrigation activities on the adjacent lands that would be acquired have increased groundwater levels within the monument to the point that the ruins are being damaged.

Acquisition of these additional lands not only will provide greater protection of the existing resource and extend protection to additional sites, but also will allow the development of improved administrative and interpretative facilities, better access, and expanded visitor parking.

WARM SPRINGS STUDY

S. 2767 would authorize the Department of the Interior to conduct a study of the history and culture of Warm Springs, New Mexico in order to determine the best way to preserve its historic and cultural legacy for future generations.

Located in the foothills of the San Mateo Mountains in extreme southern Socorro County, Warm Springs - also known as Ojo Caliente - is a huge warm spring that is the source of a twenty-mile stream known as Canada Alamosa.

Because of the presence of the spring and the river, the Warm Springs area became the site of numerous settlements over history.

A number of pueblo sites in the vicinity indicate that the spring was used by the Mimbres Indians. Warm Springs and Canada Alamosa were subsequently used by the Warm Springs Apache, who considered this area part of their homeland until they were removed in the mid-1800's. Warm Springs became the focal point for Victorio's War, which pitted the Warm Springs Apache against both the American and the Mexican Armies. In addition, the U.S. Army established Fort Harmony at Warm Springs in the 1800's.

S. 2767 would direct the Interior Department to conduct a study on the various cultures that developed around Warm Springs to determine its significance in illustrating and commemorating American frontier military history and the development of American Indian policy.

Specifically, the study will focus on the use of the area by prehistoric peoples, the Warm Springs Apache, and early settlers.

Mr. Chairman, I look forward to hearing the testimony on these measures. I hope that the Committee will give these bills its approval and present them to the Senate for enactment this year.

Senator Domenici. Mr. Chairman, on the O'Keeffe bill, first I want to thank you for co-sponsoring that. I think you are aware that for about a year I met with those people most interested in the O'Keeffe history and her accomplishments. I am very pleased that from those informal discussions, this series of ideas with reference to an appropriate commemoration of her in New Mexico and America were forthcoming.

And what we have asked is that the visibility of these various suggestions be investigated and officially passed upon. The one that is most interesting because it is novel is the one that we consider making a landscape museum and naming it after her, which would use public domain, and you would have trails and stopover places where people could look at what she looked at, perhaps, and in her memory do this outdoors, instead of building bricks and mortar.

I think it is an exciting concept, and I would ask that as part of the record we are making available locations of works painted by Georgia O'Keeffe with some samples of the work and where they came from within our State.

With relation to public domain that might help in evaluating it if you would do that.

Senator Bingaman. All right. That will be included.

Again, Mark Michael asked that a statement be submitted with reference to the Aztec Ruins, and clearly he is in support of it as president of the Archaeological Conservancy and has attached a significant evaluation of that history which I think indicates that we ought to move toward expanding and further preservation as the bill which you introduced indicates, and I ask that be made part of the record.

Senator Bingaman. That will be included.

[The information referred to follows:]

Locations of works painted by Georgia O'Keeffe with some samples of the works:

1. Mable Dodge Luhan's home in Taos, New Mexico:
   After a Walk Back of Mable's, 1929

2. D.H. Lawrence Ranch in Taos, New Mexico:
   The Lawrence Tree, 1929

3. Alcalde, New Mexico
   Small Hills Near Alcalde, 1929
   Near Alcalde, New Mexico, 1929

4. Ranchos Church, Taos, New Mexico
   Ranchos Church, front, 1929
   Ranchos Church No. I and II, 1929
   Ranchos Church, Taos, 1929

5. Indian Pueblo, Taos, New Mexico
   The Pueblo, Taos, New Mexico, 1929

6. Grey Trees in Glorietta, New Mexico
   Trees at Glorietta, New Mexico, 1929

7. Trees by camp at Bear Lake, New Mexico
   Dead Tree, Bear Lake, New Mexico, 1929

8. Black Place on Jicarilla Apache Indian Reservation - 150 miles from Ghost Ranch
   Grey Hills II, 1936
   The Grey Hills. 1940
   Black Place I, II, III, 1944

9. H & M Ranch at Alcalde, New Mexico
   Out Back of Marie's, 1930
   Back of Marie's No. 4, 1931

10. Ghost Ranch, New Mexico - 16 miles northwest of Abiquiu
    Small Purple Hills, 1934
    Yellow Cliffs - Ghost Ranch, 1934
    Cedar Tree with Lavender Hills, 1937
    Red Hills and Bones, 1941
    The House I Live In, 1937
    Cilff Chimneys, 1938

11. The Chama River, north of Abiquiu
    Chama River, Ghost Ranch, 1934
    Blue River, 1935

12. Pedernal Mountain
    Deer Skull with Pedernal, 1936
    Red Hills with the Pedernal, 1936
    Hollyhock Pink with Pedernal, 1937
    Pedernal, 1945

13. White Cliffs - north side of Abiquiu Valley
    The White Place in Shadow, 1942
    The White Place in Sun, 1942

14. Cebolla, New Mexico - town between Canjilon and Tierra Amarilla on U.S. 84
    Cebolla Church, 1945

15. From Abiquiu, New Mexico
    Mesa and Road to the East I and II, 1952
    Easter Sunrise, 1953
    Abiquiu Sand Hills and Mesa, 1945
    Early Spring Trees, 1950
    Winter Cottonwood, 1951
    In the Patio Series, 1948 and 1950
    Black Door Series, 1950's
    Near Abiquiu, 1930

The Archaeological Conservancy
415 Orchard Drive
Santa Fe, New Mexico 87501
(505) 982-3278

September 8, 1988

The Honorable Pete Domenici
United States Senate
Washington, DC 20510

Dear Senator Domenici:

I am writing in support of S. 2617, a bill to expand the boundaries of Aztec Ruins National Monument near Aztec, New Mexico to permanently preserve many additional prehistoric ruins.

Aztec Ruins is the largest and most extensive example of a Chaco Canyon associated community, popularly known as "outliers." We now know that Chaco Canyon was only the hub of a much wider system of communities that were tied together by trade, religion and wide, straight roads.

We actually know little about this system, and research is just beginning to give us some of the answers. I am enclosing a copy of an article from the July 1988 issue of Scientific American written by four former archaeologists of the Chaco Center that suggests a wholly new interpretation of the Chaco phenomena. Clearly, Aztec Ruins played a major role in this astounding prehistoric culture.

S. 2617 would expand the monument from 27 to 291 acres bringing in many unexcavated Chacoan and later Mesa Verde culture ruins, including such dramatic features as several Great Kivas and Tri-wall structures, Chacoan D-shaped room blocks and Mesa Verde culture ruins.

These important resources are threatened today by urban development, trailer courts and looting. They are of great scientific importance because they are largely undisturbed, thus containing a wealth of information about these cultures that would someday help to solve the great mystery of Chaco Canyon and Mesa Verde.

This may well be our last chance to preserve these irreplaceable ruins, and I strongly urge the prompt passage of S. 2617.

Sincerely,

Mark Michel
President

Preserving the past...for the future.

The Chaco Canyon Community

This ancient Anasazi site contains the ruins of nine multistory dwellings connected to the outside world by an elaborate system of roads. Why were they built and who lived in them?

by Stephen H. Lekson, Thomas C. Windes, John R. Stein and W. James Judge

The northwest corner of New Mexico is a barren desert, spectacularly beautiful but far from hospitable. Vegetation is scarce and rainfall averages about nine inches a year, most of it in the form of intense and often destructive downpours in late summer. In winter the temperature often falls as low as 20 degrees Fahrenheit below zero; in summer it may reach 100 degrees F. It is hard to imagine life in such a harsh and unforgiving environment. Yet along a 10-mile stretch of Chaco Canyon, in the heart of the San Juan Basin, there are remains of what was a thriving community built almost 1,000 years ago by the Anasazi, ancestors of today's Pueblos. The community once bustled with activity: irrigation systems were built, fields were leveled and a system of roads was laid out in and around Chaco. Now there are only the remains of several hundred stone-wall buildings. Among them—and still partially standing today—are the ruins of nine multistory dwellings known as the Great Houses of Chaco.

STEPHEN H. LEKSON, THOMAS C. WINDES, JOHN R. STEIN and W. JAMES JUDGE worked together on the archaeology of Chaco Canyon for more than 10 years. Lekson has a B.A. degree from Case Western Reserve University and got his M.A. in anthropology at Eastern New Mexico University in 1978. He is currently a visiting scholar at the Arizona State Museum in Tucson and expects to receive his doctorate from the University of New Mexico in 1988. Windes is a staff archaeologist with the National Park Service in Santa Fe. He has a B.A. from the University of North Carolina and an M.A. from the University of New Mexico. He is currently investigating the interrelation between Chacoan and Mesa Verdean cultures. Stein got a B.A. from the University of New Mexico in 1974 and is now an archaeologist for the Navajo Tribal Utility Authority in New Mexico. He is interested in the Chacoan road system and the extracanyon Great Houses. Judge is director of the Fort Burgwin Research Center at Southern Methodist University. He got his Ph.D. from the University of New Mexico in 1970 and was director of research at Chaco Canyon from 1977 to 1985.

For more than a century archaeologists have puzzled over these ruins and the people who built them. The massive size and planning of the Great Houses was unprecedented and unequaled in the contemporary Anasazi world. Their elaborate design and size suggests a prosperous, almost urban community and a resident population in the thousands. How can the presence of a flourishing community in an isolated desert canyon be explained?

In 1972 the National Park Service, in cooperation with the University of New Mexico, assembled a multidisciplinary team to address the Chaco Phenomenon, a name that refers to the perplexing cultural history of this settlement. By bringing together specialists from different backgrounds, it was hoped, an accurate and coherent picture of Chacoan history might be developed. We wanted to know, for example, how the people of Chaco supported themselves in such a harsh environment. We hoped to learn how the population changed over time and what interaction the Chacoans had with other prehistoric groups. Most of all, we wondered what purpose the Great Houses and their roads served in the lives of the Chacoans.

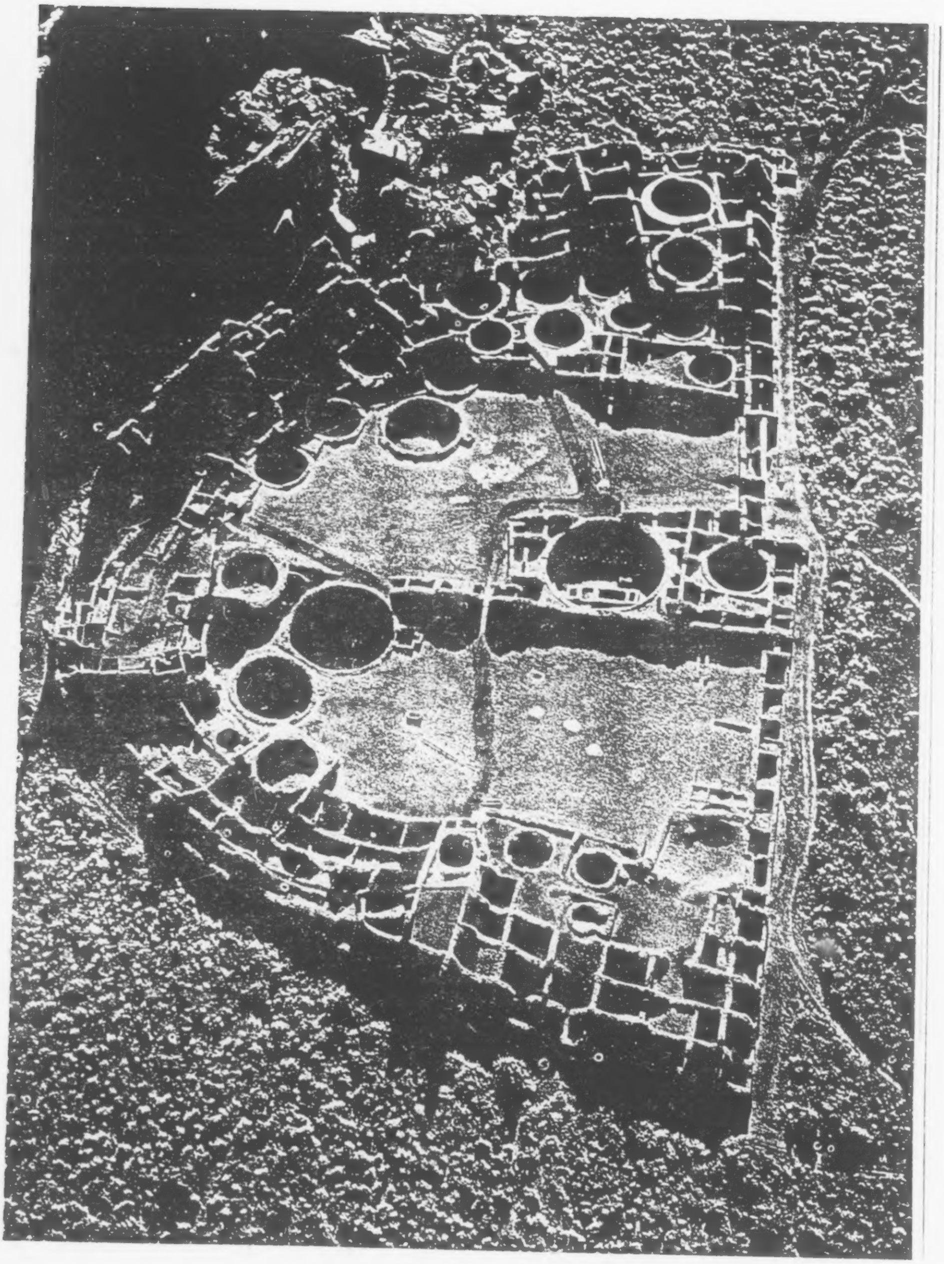
Constructed in periodic bursts of activity from about A.D. 900 to 1115, the Great Houses are clearly the centerpiece of Chacoan culture. There are nine of them: Peñasco Blanco, Pueblo Alto, Kin Kletso, Hungo Pavi, Pueblo del Arroyo, Pueblo Bonito, Chetro Ketl, Una Vida and Wijiji.

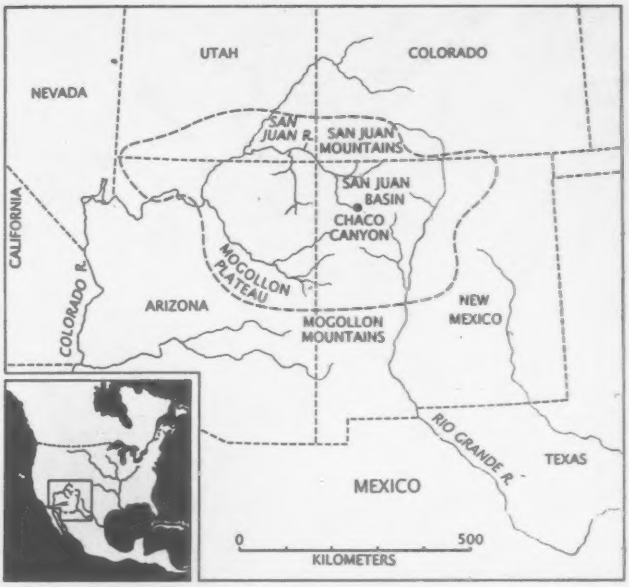
Of the nine Great Houses the most famous and most thoroughly studied is Pueblo Bonito. Situated at the base of a 100-foot-high mesa on the north side of the canyon, it has a distinctive D shape and occupies almost three acres of ground. Although little remains today of its upper floors, several sections that are four or five stories tall are still standing. When it was finally completed in the 12th century, it contained more than 650 rooms and was the largest of the Great Houses.

Pueblo Bonito and the other Great Houses in the canyon are constructed from blocks of sandstone, carefully coursed (horizontally aligned) in beautiful patterns. These masonry patterns, which are both intricate and period-specific, are a well-known feature of Chacoan architecture. The sandstone blocks fit together tightly, forming walls that are as much as a meter thick at ground level and decrease slightly with each successive story. The walls are far stronger than those at other Anasazi settlements. Some 45,000 kilograms of sandstone cut by hand from the surrounding cliffs, for example, were needed to build a single small room in one of the Great Houses; as many as 50 million pieces of sandstone may have been cut to build Chetro Ketl alone.

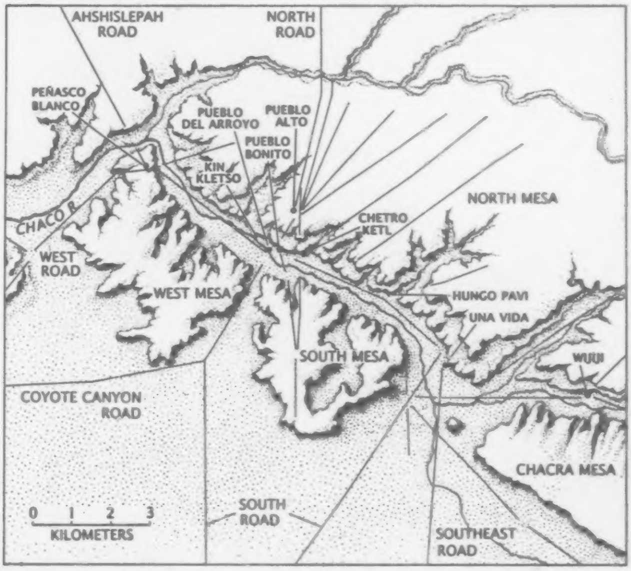
Overengineering, typified by the masonry walls, is a prevalent feature at Chaco Canyon. It presumably reflects the cultural importance of the Great Houses; it may also have meant that the buildings needed little upkeep and so could be maintained without difficulty by a small or intermittent population. The formal geometry of the

PUEBLO BONITO, shown in this aerial photograph, is at the base of Chaco Canyon's north wall. One of nine Great Houses at Chaco, it was divided into more than 650 rooms, many of which may have served a purpose other than habitation. Great Houses are noted for their numerous circular ceremonial chambers called kivas. Two Great Kivas, which are characteristic features of Chaco Canyon, are visible here.




NEVADA
UTAH
COLORADO
CALIFORNIA
SAN JUAN R.
SAN JUAN MOUNTAINS
SAN JUAN BASIN
CHACO CANYON
MOGOLLON PLATEAU
COLORADO R.
ARIZONA
MOGOLLON MOUNTAINS
NEW MEXICO
RIO GRANDE R.
TEXAS
MEXICO
0
500
KILOMETERS

CHACO CANYON is at the center of the San Juan Basin in the northwest corner of New Mexico, where Utah, Colorado, Arizona and New Mexico come together. The region of the Southwest that was once occupied by the Anasazi is indicated by a broken line.


AHSHISLEPAH ROAD
NORTH ROAD
PEÑASCO BLANCO
PUEBLO DEL ARROYO
PUEBLO ALTO
PUEBLO BONITO
KIN KLETSO
CHACO R.
NORTH MESA
CHETRO KETL
WEST ROAD
WEST MESA
HUNGO PAVI
UNA VIDA
SOUTH MESA
WIJIJI
COYOTE CANYON ROAD
CHACRA MESA
0
1
2
3
KILOMETERS
SOUTH ROAD
SOUTHEAST ROAD

GREAT HOUSES of Chaco Canyon are connected to one another and to outlying communities by a system of roads that extends across the San Juan Basin. Where the roads encountered cliffs, scaffolding, wood ramps and stairs were built.

floor plans is another prominent feature of Chacoan architecture. Rooms and kivas (circular chambers believed to have had a ceremonial function) are arranged in gridlike patterns; even the doorways and air vents are constructed at regular intervals along each wall and from room to room and story to story. Such linear precision and complexity could not have been accomplished without advance planning and the active involvement of architects.

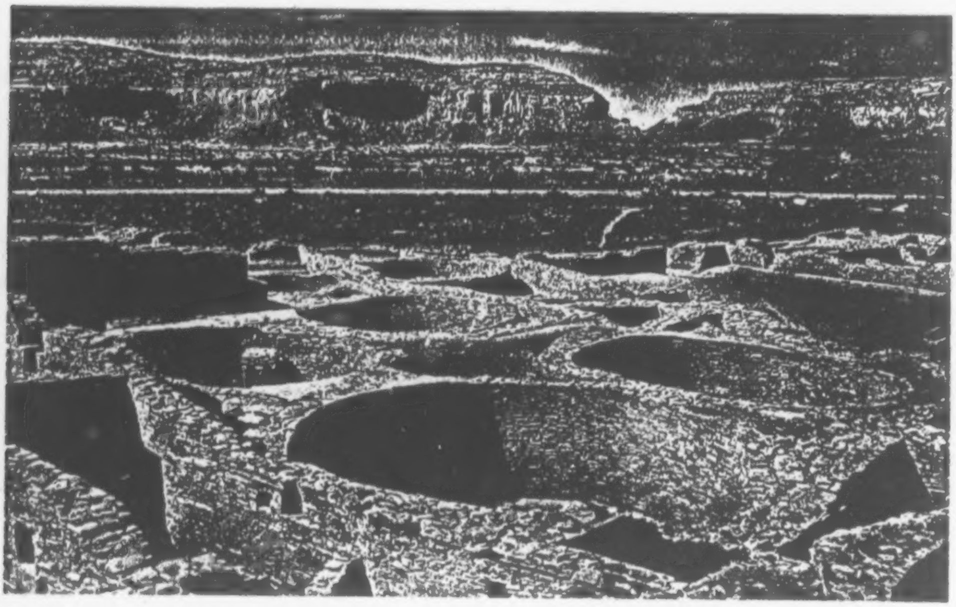
The sense of massiveness that pervades Chaco Canyon stems not only from the masonry itself but also from the amount of labor one imagines was required for the project. We estimate that in order to construct the floors and roofs of these multistory houses 215,000 trees, some of them 25 centimeters (10 inches) in diameter, were cut from forests as many as 80 kilometers away; how they were carried across the desert for such great distances remains a mystery.

Clearly considerably more labor was needed to build the Great Houses than was needed for the smaller houses in the canyon. The Great Houses were much more labor-intensive even per unit area than other buildings of their day. Many of the actual construction techniques seen at Chaco were commonplace at smaller Anasazi settlements in the Southwest, but the large scale and grand design of the Great Houses is unique. Not only are the buildings taller, the walls thicker and the stone patterns more intricate but also the individual rooms are larger than rooms constructed elsewhere during the same period.

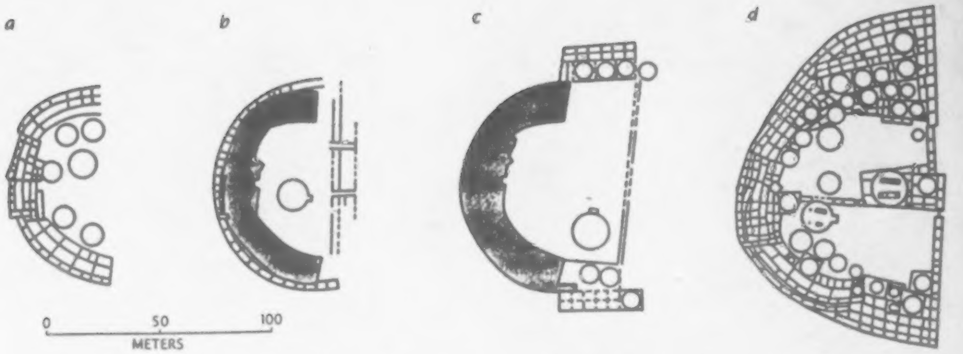
How many laborers were needed for construction of the Great Houses? We know (from wall abutments and masonry styles) that major sections of the houses were constructed as single projects. Did the Great Houses require a small army of laborers, as some have suggested? Based on calculations of the amount of stone, clay, water and wood beams needed to build a single room, we estimated that over a 10-year period the equivalent of about 30 men working between two and four months a year could have successfully completed a major construction project at Chaco. Although the work would have been arduous (carrying sandstone blocks from nearby cliffs and logs from a distance of 40 to 80 kilometers could not have been easy), we believe it did not require a resident population in the thousands or a large influx of outside laborers.

The Great Houses were clearly an integral part of Chacoan culture, and in order to understand their importance we set out to excavate one that had not yet been studied. We selected Pueblo Alto in part because it was unexcavated but even more because it appeared to be a terminus for several roads from the north, including the Great North Road. By studying Pueblo Alto we hoped to gain greater insight into the regional road system and its relation to the Great Houses of Chaco. Between 1976 and 1979 we excavated 10 percent of the site in order to investigate the different types of rooms and the activities associated with them. We were reluctant to excavate more than 10 percent, not only because the effort would have been considerable (Pueblo Alto covers more than two acres) but also because we wanted to disturb the site as little as possible.

CHETRO KETL appears almost camouflaged to an onlooker standing near the rim of the canyon facing west. The Great Kiva at Chetro Ketl, which is a little more than 18 meters (60 feet) in diameter, is clearly visible in the foreground.



SMALLER KIVAS, like those at other Anasazi sites, are abundant at Chaco. At Pueblo Bonito 37 have been excavated. Bonito was built opposite a gap in the canyon's south wall (*horizon at center right*), through which the South Road passes.



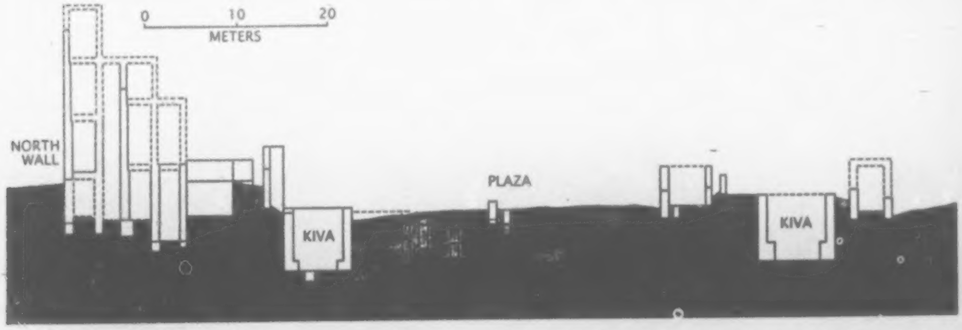
GREAT HOUSES were built in stages; the additions at each stage at Pueblo Bonito are shown. Older construction is in color. Pueblo Bonito was built in the 10th century as a semicircular suite of rooms and kivas (*a*); in the 1040's road-related suites were added along the north wall and a Great Kiva was built (*b*). In the 1050's and 1060's outer wings were added, razed and remodeled (*c*). It was completed by 1140, when more rooms, another Great Kiva and several smaller kivas were added (*d*).

Situated on top of the north rim of Chaco Canyon about a kilometer from Pueblo Bonito, Alto commands a vast 360-degree panoramic view of the San Juan Basin, a position that is unique among the Great Houses. It also differs from the other Great Houses in the canyon in having only one story. Unhindered by the confusion created by the collapse of multiple floors, we were able to obtain an unparalleled view of architectural organization and suite planning at the site.

By utilizing a variety of dating techniques we determined that most of Pueblo Alto was built between 1020 and 1060, although minor construction and remodeling continued into the early 1100's. Three different configurations of connecting rooms, called suites, were identified: household suites, big-room suites and road-related suites. Together they accounted for at least three-fourths of Pueblo Alto's floor area. To our surprise household suites, which consist of a living room connected to a storage room, represented a relatively small percentage of the total number of rooms at Pueblo Alto. We were able to determine that only five of the approximately 85 rooms originally constructed at Alto were for habitation and all of them were in the west wing of the building.

In two of the household suites we found stone- and adobe-lined hearths, storage pits, mealing bins for grinding corn and special niches for food. The presence of pollen and burned seeds from food plants indicated that food had been processed and eaten in those rooms. The floors, which had been replastered many times, were badly worn—presumably as the result of heavy domestic use. Indeed, the level of activity in those few rooms greatly surpassed that of other rooms we excavated at Pueblo Alto.

Once we had identified the key features of household suites in Pueblo Alto we were able to look for evidence of habitation in the rooms of other Great Houses. A similar pattern emerged: we found only five household suites at Pueblo Bonito, five at Pueblo del Arroyo and no more than 11 at Una Vida. All had apparently been constructed between 920 and



CROSS SECTION of Pueblo Bonito shows its layout and topography. Near the canyon's north wall Pueblo Bonito is thought to have been five stories tall; the number of stories decreased closer to the center. Some kivas shown here were excavated into the central plaza; others were built aboveground and the area around them was subsequently filled in with dirt.

1095 (a period that coincided with construction at Pueblo Alto). We estimate that in each of these Great Houses the household suites may have been home to no more than 100 people, a far cry from the 5,000 or more projected by earlier archaeologists.

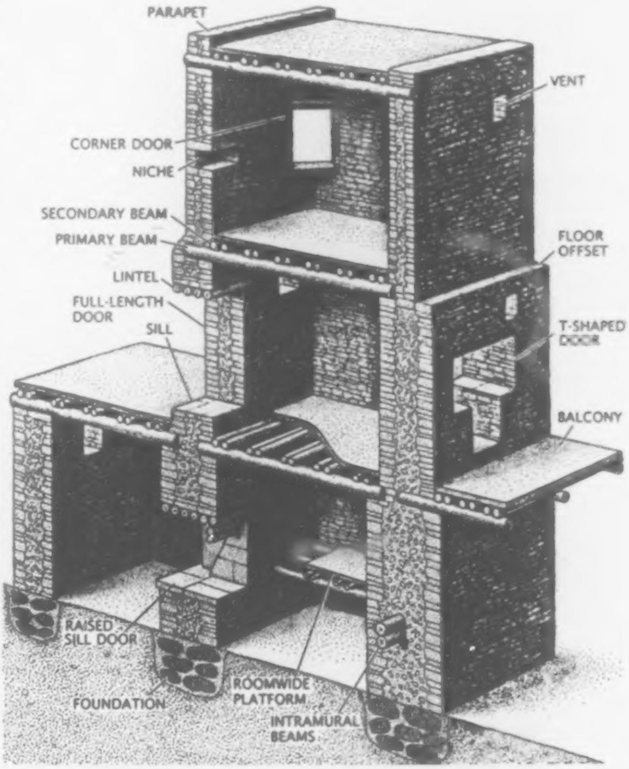
The big-room suites at Pueblo Alto and at other Great Houses are also suggestive of a limited resident population. Big-room suites consist of a storage room connected to a second room that may have been inhabited on a limited basis, and they are associated with a small kiva. As their name implies, the rooms of a big-room suite are larger than those of household suites; the overall suite may be as much as 100 square meters in area, or almost twice the size of a household suite. But within a big-room suite the amount of space allocated for habitation is only about 15 percent of the total area, whereas in household suites it is 50 percent or more. Moreover, there are no doors connecting one big-room suite with another—evidence that they were defined in some way by political or social boundaries—and no indication that cooking or eating took place in them. Five big-room suites were built when Pueblo Alto was first constructed in the early 1000's and three more were added in subsequent years.

Road-related suites are by far the most intriguing of the three types of rooms we found at Pueblo Alto. They are small, interconnected storage rooms that were built in rows along the exterior of the building and opened directly onto adjacent roads. An unusual aspect of these suites is that they are completely inaccessible from inside the house. If the Great Houses were primarily for habitation, one would expect storage rooms to be accessible to their inhabitants. The existence of doors that open only to the exterior of the building implies instead that the suites are road-related storage rooms of some kind and that the residents of the Great Houses had limited control over them. The fact that road-related suites were constructed at Pueblo Alto, Pueblo Bonito and Chetro Ketl, and probably at Penasco Blanco, at approximately the same time (the 1040's) strongly suggests that they were built for a common purpose.

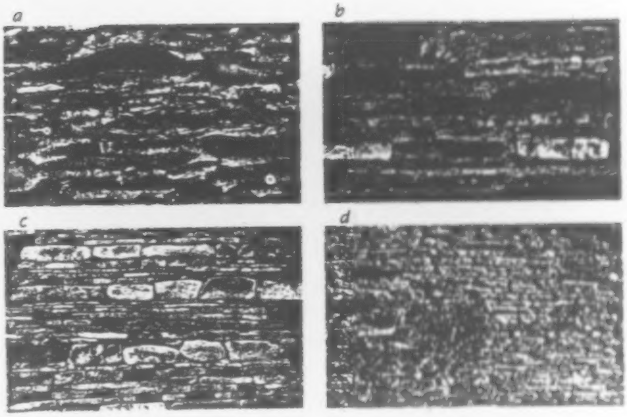
Other aspects of Pueblo Alto architecture are of interest. Like all the larger Great Houses, it has a central plaza: a large, open area within the building's walls. Unlike the plazas at smaller dwellings in the canyon, which were of soil compacted by foot, the plaza at Pueblo Alto was periodically resurfaced with thick coats of clay. We assume that the plaza served a special purpose in the lives of the Chacoans, perhaps as an important gathering place at certain times of the year, but we know little else about it. A second plaza was also identified at Pueblo Alto, but it is outside the building and marks the juncture of several roads, and so it may be related to trade rather than to ceremony.

Our systematic excavation of Pueblo Alto resulted in the discovery of an extraordinary number of artifacts. More than 204,000 pieces (including potsherds, flaked stones and food remains) were recovered, 70,000 of them from a nearby trash mound that occupied 2,400 cubic meters of space and stood four meters tall. How could the small permanent population in the household suites have produced such a disproportionate number of artifacts? We estimated that over a 60-year period more than 150,000 pottery vessels alone were discarded in this one trash mound. If our estimate of the number of permanent residents at Pueblo Alto is correct, that amounts to 2,500 vessels per year or 25 pots per person per year! How might such a quantity of refuse be explained?

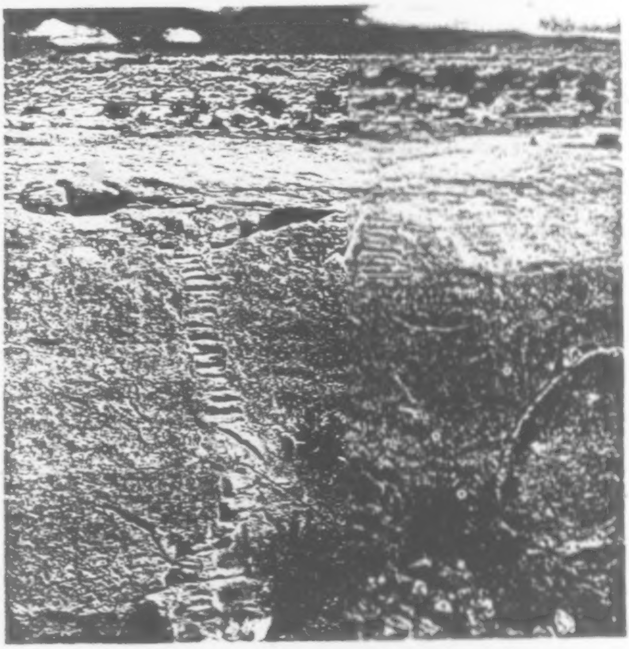
The trash mound provides interesting clues to the activities that may have taken place at Chaco. The trash appears to be layered in the mounds as if it was deposited intermittently



CROSS SECTION of several rooms in a typical Chacoan Great House is shown in this schematic drawing. The strength of the structure is suggested by the width of the walls. Floors were constructed from primary and secondary pine beams (laid at right angles to one another) and then covered with a mud plaster. Rooms were well vented to provide adequate air circulation. A variety of doors, including small corner doors, T-shaped doors and full-length rectangular doors, can be found in each Great House.



MASONRY of the Great Houses is highly stylized and falls into four basic types. The oldest (*a*) is fairly crude, consisting of irregular chunks of sandstone held together by large quantities of mud (replaced here with concrete); the second consists of blocks of sandstone chinked or reinforced with small, flat chips of rock (*b*). The third and fourth types are most recent, having been built in the late 1000's. The third is characterized by rows of large sandstone blocks alternating with rows of smaller pieces (*c*); the fourth is made from flat, highly regular pieces of sandstone (*d*).



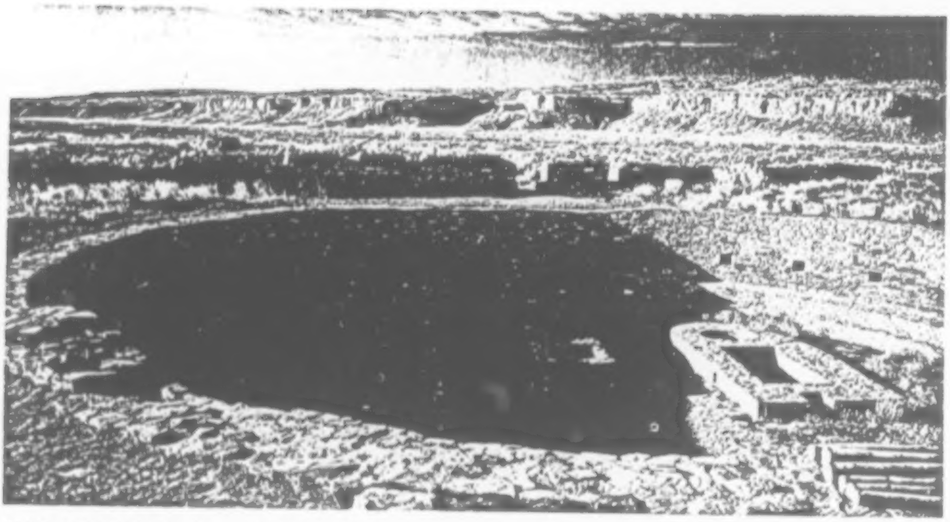
STAIRS were sometimes cut into the cliffs surrounding Chaco to facilitate movement into and out of the canyon. This staircase was built about a kilometer north of Chetro Ketl and runs some 75 feet vertically up the cliff face. To the left of the stairs handholds, also carved into the rock, are visible. To the right of the staircase at its top one can see the beginning of a second set of stairs, which was never completed.

rather than daily. Not all the Great Houses have trash mounds, implying that they were not essential to or indicative of everyday living. Houses that do have mounds show a similar discrepancy between the number of artifacts and the size of the resident population. We therefore think the mounds reflect human activity unrelated to daily occupation. Could the mounds have been created by seasonal gatherings of large numbers of people, who may have converged on Chaco for ceremonial reasons? Once created in that way, they may have become important features of the landscape, serving as visible reminders of past ceremonial events.

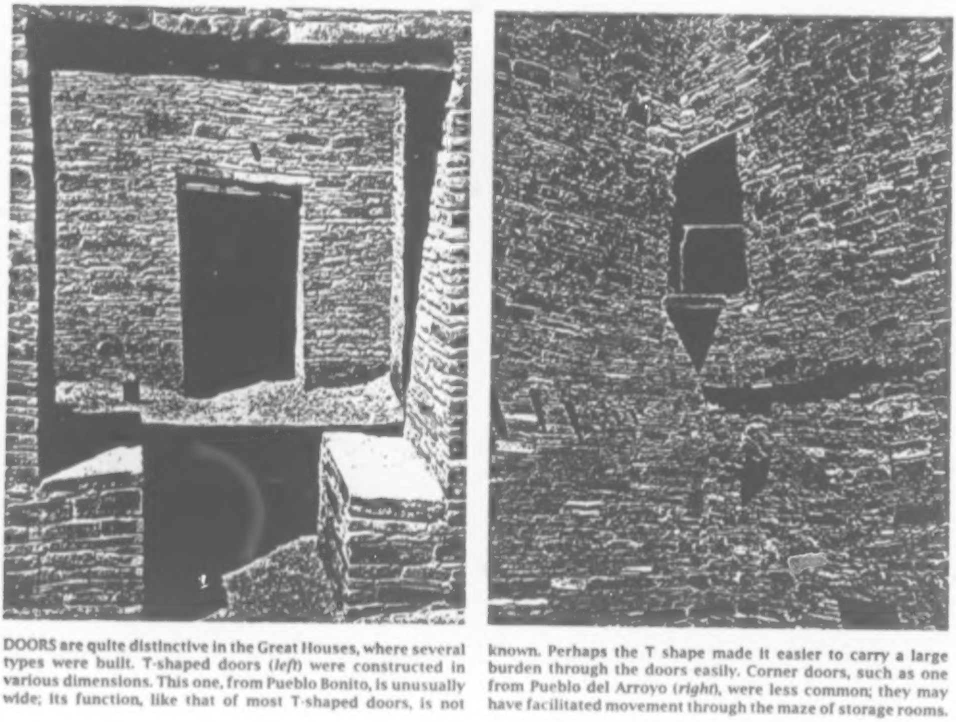
The roads that radiate out from the Great Houses provide further—and indeed the most compelling—evidence that Chaco was not an isolated community but was physically connected to distant Anasazi communities. Although the roads were first noticed in the early 1900's, when the Navajo who live in the region today reported finding traces of them in remote areas of the San Juan Basin, it was not until remote-sensing techniques became available in the 1970's that the roads were studied on a large scale.

In 1981 the Bureau of Land Management began a systematic study of the Great North, Ahshislepah, South and Coyote Canyon roads, major roads known to cross the vast area of public lands surrounding Chaco Canyon. At the time it was widely believed the roads, which are noticeably linear (the Great North Road, for example, follows a bearing close to true north for almost 50 kilometers), were little more than simple trails made visible by prolonged wear. As the study progressed, however, it became apparent that the roads had been carefully engineered: not only were the roadbeds excavated below the surface particularly in areas of uneven topography, but also they were flanked by linear mounds of earth called berms. The width of the roads varies in some places, becoming greater in the vicinity of the Great Houses, but for large distances it is a consistent nine meters (almost 30 feet) across. Wide stairways were cut into the cliff faces of Chaco Canyon, and wood ramps and scaffolds were set at various points along the cliffs to facilitate movement into and out of the canyon.

We are just beginning to comprehend the extent of the roads beyond the San Juan Basin. Ongoing studies by Jon R. Roney of the Bureau of Land Management, Michael P. Marshall of the Solstice Project, Andrew P. Fowler



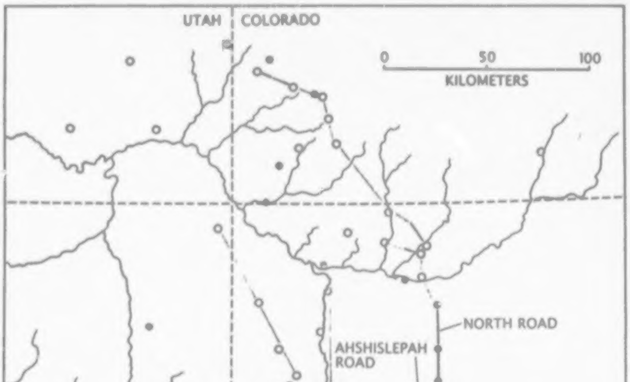
GREAT KIVA at Chetro Ketl is one of the largest at Chaco. It is a massive structure with a wall about three feet thick. On the floor four masonry-lined holes held enormous wood roof supports; at the center was a square firebox. At regular intervals around the circumference there are recessed niches, each about a foot square, whose function was probably ceremonial.



DOORS are quite distinctive in the Great Houses, where several types were built. T-shaped doors (*left*) were constructed in various dimensions. This one, from Pueblo Bonito, is unusually wide; its function, like that of most T-shaped doors, is not known. Perhaps the T shape made it easier to carry a large burden through the doors easily. Corner doors, such as one from Pueblo del Arroyo (*right*), were less common; they may have facilitated movement through the maze of storage rooms.

of the Zuni Archaeological Program and us suggest that the roads probably extend as far north as the San Juan Range in the Rocky Mountains and as far south as the Mogollon Mountains. Although we are less certain of their paths east and west, we believe they may have extended as far east as the turquoise mines near Santa Fe and as far west as the Little Colorado River valley, perhaps even as far as the San Francisco peaks near Flagstaff.

What purpose might these roads have served? We believe they identify Chaco Canyon as both the ceremonial center and the hub of a vast regional network. The probability that Chaco was a ceremonial site is indeed likely. Great Kivas, conspicuous elements of Chacoan architecture, are found within the walls of some of the larger Great Houses. At least 18 have been found at Chaco; two of them have been excavated at Pueblo Bonito. These masonry-walled subterranean structures are twice as large as the other kivas at Chaco: they average from 15 to more than 20 meters in diameter and are as much as four meters deep. At the bottom of each there are masonry-lined holes that once held massive roof supports; one of the timber supports found at Chetro Ketl is known to have measured 68 centimeters (26.5 inches) in diameter, a hefty load to carry for a distance of 40 or more kilometers. Recessed niches are spaced at set intervals in the walls of the Great Kivas. Their function is not known, but they may have had ceremonial importance.

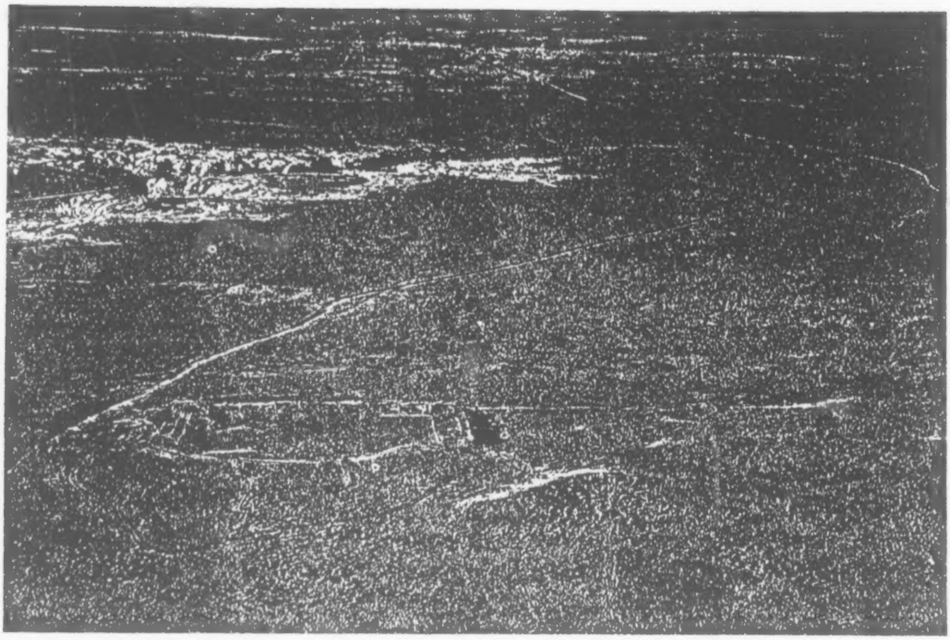


CHACOAN REGION, defined by the presence of Great Houses, Great Kivas and roads, covers northeastern New Mexico and parts of Colorado, Utah and Arizona and is much more extensive than previously recognized. Although the road system is incompletely mapped, the authors are currently expanding their research in this area.

Evidence that Chaco Canyon was the center of an extensive regional system can be derived from the types of artifacts found there. Exotic items, including turquoise from the Santa Fe region 160 kilometers to the east, ornamental shells from the Pacific coast and copper bells and macaw feathers from Mexico, are more abundant at Chaco Canyon than at other contemporary Anasazi sites. More remarkable is the number of utilitarian goods that were imported from outside the canyon. As much as a third of the chipped-stone debris found at Pueblo Alto came from distant quarries, such as Washington Pass in the Chuska Mountains 80 kilometers away. Up to half of the many thousands of pottery cooking vessels are made from a special clay that has also been identified as coming from the Chuska area.

Almost a century ago structures similar to the Great Houses of Chaco Canyon were recognized some distance from the canyon. The site called Aztec Ruin, for example, which is similar to Chetro Ketl in size and layout, was discovered 85 kilometers north of Chaco and excavated in the 1910's and 1920's. Over the years other Chaco-like sites have been reported. By the 1970's the number of extracanyon Great Houses had grown to more than 20, most of them severely eroded by the forces of nature and reduced to rubble mounds. After a decade of fieldwork the list of possible extracanyon houses has grown to more than 150 and covers an area of at least 150,000 square kilometers and perhaps as much as 300,000 square kilometers.

We think this entire area was part of the Chacoan regional system during



PUEBLO ALTO is situated above Chaco Canyon on the north mesa, where it commands a panoramic view of the surrounding San Juan Basin. Only a vague outline is visible from the air, in part because much of Pueblo Alto has been eroded and in part because much of the site has been filled in to prevent further decay. The remains of four prehistoric roads leading north from Pueblo Alto can be seen faintly (in contrast to modern roads, which are readily visible). The road system was carefully planned: the roads are surprisingly straight and for much of their length they are a constant nine meters wide.

the 11th and 12th centuries. We think so not only because the extracanyon houses are architecturally similar to the Great Houses of Chaco but also because many of them are connected to Chaco by the elaborate system of roads. The Chacoan system, as we now define it, is from eight to 10 times larger than we had previously recognized, and the scale of our studies has become irreversibly much larger.

Before the discovery of Great Houses and roads beyond the San Juan Basin, we thought the evolution of the Chacoan regional system could best be explained on the basis of local ecological conditions. We knew that during the 11th and 12th centuries the San Juan Basin was a bleak and largely uninhabited desert and that the road system extended for many kilometers through terrain uninhabited by the Anasazi. Eventually the roads reached the rim of the basin, where greater rainfall and more productive soils encouraged densely populated settlements. We knew from tree-ring data that in any given year the amount of rainfall might have varied considerably around the basin and that a good agricultural year at one spot (producing a food surplus) might have been a bad year (leading to famine) at another. We theorized that Chaco Canyon was a central storage site for the entire San Juan Basin. Surplus food from around the basin would be brought to the Great Houses, where it would be stored until needed by communities affected by scant rainfall. In such a context the big room suites, the road-related suites and the layered trash mounds make perfect sense.

Now, given the dramatic increase in the scale of the Chacoan system, we must reevaluate our hypothesis. Although we are certain that Chaco Canyon was very different from the isolated proto-urban community it is often portrayed as being, we are less certain of how it fits into the world beyond the San Juan Basin. We know that it was the heart of a vast regional system and a community of unprecedented complexity; we also have reason to believe it was much more than a communal center for the San Juan Basin. Just how large was the Chaco system? No one can say for sure, but it is clear that the picture now emerging signals the beginning of a new generation of Chacoan studies.

FURTHER READING

THE ARCHITECTURE OF PUEBLO BONITO. Neil M. Judd. *Smithsonian Miscellaneous Collections*, Vol. 147, No. 1, Publication 4524, 1964.

GREAT PUEBLO ARCHITECTURE OF CHACO CANYON, NEW MEXICO. Stephen H. Lekson. *Publications in Archaeology 18B, Chaco Canyon Studies*. National Park Service, Division of Cultural Research, P.O. Box 26176, Albuquerque, N.M., 1984.

PEOPLE OF CHACO: A CANYON AND ITS CULTURE. Kendrick Frazier. W. W. Norton and Company, Inc., 1986.

ARCHAEOLOGICAL SURVEYS OF CHACO CANYON. Alden C. Hayes, David M. Brugge and W. James Judge. University of New Mexico Press, 1987.

Senator **Domenici**. Mr. Chairman, are we finished with all the bills?

Senator **Bingaman**. We are through except we have one additional witness from the Society of American Archeology.

Senator **Domenici**. I do not think I have any further questions. Yes, I do.

Mr. Rogers, with reference to Fort Stanton in New Mexico, I understand that you have a particular interest in western frontier history, at least that is what I have been informed. Is that correct?

Mr. **Rogers**. Senator, that was one of my fields long ago in school, yes, sir.

Senator **Domenici**. I was recently visited by a group of citizens from Fort Stanton in New Mexico. That is an old military fort. I assume you are aware of that.

Mr. **Rogers**. I have been there.

Senator **Domenici**. It is a state hospital there now, but it has preserved the history. They are interested in preserving this fort as a monument to the U.S. Cavalry and establishing a center for the western horse. They have invested a great deal of effort in this project.

I would appreciate it if you and other members would review this master plan which I am going to ask the Chairman to submit to you and give this at least your informal departmental views on it. Could that be done? We have no time limit. We are not in a hurry. But if you could do that for us, we would appreciate it.

Mr. **Rogers**. We are always happy to encourage the preservation of a historic resource, and we would be very glad to do that.

Senator **Domenici**. Thank you very much, Mr. Chairman.

Senator **Bingaman**. Very good.

Why do we not go ahead, then, and dismiss Mr. Rogers. Thank you very much for your testimony today. We appreciate that.

And our final witness is Loretta Neumann, who is the Washington representative for the Society for American Archeology. We are very pleased to have you here, and we are very anxious to hear your testimony on any or all of the bills that we are considering today.

STATEMENT OF LORETTA NEUMANN, WASHINGTON REPRESENTATIVE, SOCIETY FOR AMERICAN ARCHEOLOGY

Ms. **Neumann**. Thank you very much. I am the Washington representative for the Society for American Archeology which very strongly supports both the bills that are before us, S. 1314 and H.R. 4068, the bills to amend the Archeological Resources Protection Act.

We also support, although my statement does not reflect it, S. 1985, which both of you gentlemen co-sponsored, to improve the protection of archeological resources on federal lands.

I would just digress a moment and say that one of my reasons for making that statement after hearing the testimony is that while section 110 of the National Historic Preservation Act does require federal agencies to have a program to survey and inventory the properties on their land for the National Register of Historic Places, most of these agencies have not done so. And I have some statistics and would be happy to give them to you for the record of the extent of that.

The Fish and Wildlife Service alone has only surveyed 1 percent of its lands, and yet it by far has more land than the National Park Service and very few archeologists. There is only one in Washington.

The Forest Service has done reasonably well, but they do not have a comprehensive program. They do most of their work preserving inventory in response to timber management, road building, construction activities, not because they have the program that is called for by the Historic Preservation Act.

We think that the language in S. 1985 would be a wonderful addition and would not duplicate the existing law.

I will not read my whole statement. You can skim it faster than I can read it anyway. I would like to point out, though, the importance of archeological resources because once they are gone, they are gone forever. These are the undocumented remains. In many cases they are the only evidence we have of the past, and when they are gone, they are gone forever.

I helped work on the Archeological Resources Protection Act in 1979, the initial legislation, and with others felt high hopes that this would help solve a problem that was identified as growing ten years ago, and it has been exacerbated since. Unfortunately, it has not lived up to its promise.

Today most of the cases are being tried as you heard, and the convictions made not under ARPA, but under the theft of government property statutes which are not fully effective from an archeological perspective.

So, we support the changes that were made. We have supported Senator Domenici's version of the bill. We were delighted that the House basically took that. It has become one of those nice issues that is bipartisan, bicameral and sort of bicoastal almost, given that Congressman Gejdenson is from Connecticut.

It shows, though, that the issue is a national one. It is not just a southwestern one. It is not just one of Indians. There is looting going on on battlefields. We have talked to the Navy, the Army, the Air Force, and they have lands. The Bureau of Reclamation lands are affected. This is not just your traditional land managing agencies that have the problem. So, we do support the bill, and I will not belabor that point.

I would like to say one other thing, that historical sites are also threatened and there is going to trial tomorrow in Reno, Nevada, a case in which there were looters who began vandalizing Shermantown, a mining boom town on Forest Service land. There were 17 saloons on Main Street, a separate Chinese section. It is being tried, though, under the Destruction of Government Property Act, mainly because it was not considered to be—it might be 100 years old, but then they were not sure whether it was historic, so rather than face that test, they used a different act.

And that is one reason why my testimony would suggest that we would like the age limit lowered from 100 years to 50, if not done this year, then perhaps next. We would very much more prefer to have this bill enacted into law this year if that can be expedited. We can take care of further refinements later. I just wanted to bring that to your attention. And with that, I would be open for questions.

[The prepared statement of Ms. Neumann follows:]

SOCIETY FOR AMERICAN ARCHAEOLOGY

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Statement on S. 1314 and H.R. 4068
Before the Senate Energy and Natural Resources Committee
Subcommittee on Public Lands, National Parks and Forests
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Loretta Neumann
Washington Representative
Society for American Archaeology

Mr. Chairman, the Society for American Archaeology (SAA) is pleased to have the opportunity to offer testimony on H.R. 4068, to amend the Archaeological Resources Protection Act (ARPA).

We applaud the concern and interest in archaeology shown by so many Members of Congress. Senator Domenici and Senator Bingaman have long been true friends of archaeology and historic preservation. Among other things, Senator Domenici is responsible for special funding for ARPA enforcement in the Departments of Justice and Interior and for two excellent archaeological resources protection bills, including S. 1314, companion to H.R. 4068.

In the House, Representative Gejdenson has taken the lead in archaeological legislation and succeeded in sponsoring the original bill being discussed today. His subcommittee's oversight field hearings and subcommittee report on the increasing problems of cultural resource protection have done much to bring the critical problem to the attention of Congress, the federal agencies and the public.

In addition, Mr. Chairman, the SAA once again offers our sincere appreciation to you and the members of this Committee for your efforts and support over the last several years.

H.R. 4068, as amended and passed by the House is an excellent bill. It clearly combines the House and Senate versions. H.R. 4068, as amended, will enable archaeologists, land managers and prosecutors to better protect the nation's cultural resources.

Interests of the Society

The Society for American Archaeology is a professional society whose members are drawn from the academic, governmental and business spheres of archaeology. The SAA is an international scholarly and professional association comprised of both professional and avocational archaeologists concerned about the discovery, interpretation and protection of the archaeological heritage of prehistoric America. As such, the SAA has had a long relationship with the Department of the Interior and other federal land managing agencies to help preserve and promote the nation's cultural and natural resources.

Contributions of Archaeology

Archaeology's contribution to the history of America is both unique and indispensable. It ranges from the peopling of the American continent thousands of years ago and the cultural history of Native Americans, to the first European settlements, our county's struggle for independence, the opening of the West, the transformation of rural communities and development of our great cities. An accurate interpretation of the past is essential to an understanding of the history of the United States and our present position as a people. Much of the heritage of this county is represented solely by the tangible undocumented remains of our past, and this is what archaeology recovers, interprets, and preserves.

Mr. Chairman, people like archaeology. It is exciting. When given the opportunity to participate the public often becomes avid in protection efforts. But archaeological sites are increasingly threatened by looting and vandalism. In the last several months, the popular press has offered articles on topics ranging from the senseless destruction of Slack Farm in Kentucky (Archaeology July-August 1988) to the mining archaeological sites for artifact sale (High County News August 29, 1988). These articles, and many others, have succeeded in bringing the problem to the general public. But public awareness is not enough. Stronger legislation and more rigorous enforcement are essential.

Concerns About ARPA

In 1979, the Archaeological Resources Protection Act (ARPA) was enacted. The purpose of this law was to enable federal land managing agencies to better protect archaeological, historical and other cultural resources on the lands under their jurisdiction. In the subsequent years, it has become clear that ARPA, although well intentioned, is difficult to implement and even more problematic to enforce and prosecute.

Many reports have been issued recently which detail the problems of enforcing ARPA. The oversight subcommittee of the House Interior Committee held field hearings in October 1987 in Cortez Colorado. The investigative report of these field hearings provided an analysis of the scope of the problem. In many cases, federal agencies do not even know the extent of archaeological resources on their lands. They do not know how many sites there are or how many are being vandalized and looted. In this situation, it is impossible to clearly assess the extent of the problem.

As the report from the House Oversight Subcommittee states:

> ARPA, and law enforcement in general, is only one of the many approaches available to protect archaeological resources. Other methods such as public education, interactive archaeology programs, and archaeology site stewardship programs are at least as important. ARPA must be evaluated in the context of its effectiveness as a law enforcement tool, not as a cure-all for the looting and vandalism problem. (page 11)

Prosecutions under ARPA have been less than successful. The law has been on the books for some nine years. In November, the first felony conviction by a jury was handed down by a court in Arizona. Although the jury felt the defendant had committed an offense of felony proportions, he received a sentence of 60 days in jail and two years probation. Earlier this month, in Utah, the first ARPA conviction ever for that state, was handed down. The defendant was found guilty of a misdemeanor under ARPA and will be sentenced next month.

Recommendations

With this in mind, and with the intention of improving the implementation of ARPA without weakening any important existing provisions, the SAA supports S. 1314 and the House passed version of H.R. 4068.

We strongly support the addition of language to Section 6(a) of ARPA reading "or attempt to excavate, remove, damage or otherwise alter of deface". It will enable federal land managers to apprehend and prosecute violators before archaeological resources are destroyed or damaged.

The lower felony threshold from $5000 to $500 (Section 6(d) of ARPA) will bring ARPA more into line with other federal statutes relating to theft and destruction of government property. It will facilitate investigation and prosecution of such crimes.

The SAA would like to see the age limit in Section 3(1) ARPA so changed so that its provisions apply to archaeological resources that are at least 50 years of age, instead of 100.

Many cultural resource sites on federal lands in the Great Lakes states, mid-West and parts of the Western section of this country are not 100 years old. These are the most apparent sites and often most subject to indiscriminate destruction. They include lumber camps, farm steads and WPA associated sites. Not one CCC related site is protected under ARPA. Lowering the age limit to 50 years would provide a more efficient mechanism for federal land managers to protect sites of archaeological significance that are not 100 years or older but which hold untold data of national significance.

We are especially pleased with the new provisions for federal agencies to establish a program to increase public awareness of the significance of archaeological resources located on public lands and Indian lands and the need to protect such resources. Indeed, SAA has embarked on a year long anti-looting project, "Saving the Past for the Future." We are submitting a copy of for your files. This project has been well received and many of the federal land managing agencies and other groups will be partners in this important effort.

Related to this, the SAA strongly supports sufficient funding for law enforcement divisions of the federal agencies. Funding is needed for undercover investigations, sting operations and equipment. Federal undercover agents are anxious to help with protection of cultural resources, but they are not able to do so without management direction and funding. Investigations are expensive and time consuming. To make good cases, it is going to take more money.

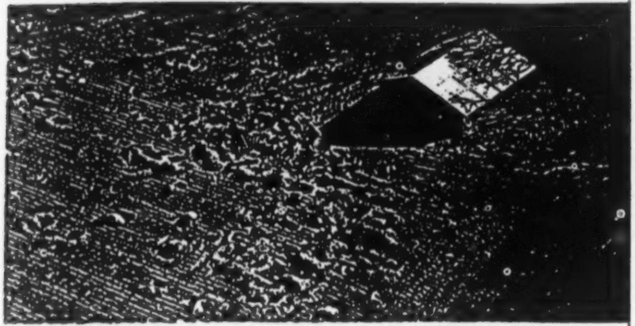
Conclusion

S. 1314 or H.R. 4068, Amendments to the Archaeological Resources Protection Act, if passed quickly could be a partial solution to the rampant and increasing destruction of cultural resources on federal lands. We urge the committee to help assure its passage during this session the Congress. We in the SAA will do all we can to help accomplish this goal.

Thank you for the opportunity to testify.

Black Day at Slack Farm

by Brian Fagan



Today, Slack Farm resembles a battlefield – a morass of shovel holes and trenches.

Like most archaeologists, I have, over the years, developed a numbness to the orgy of site destruction that surrounds us on every side. But a recent story about Slack Farm on the front page of *The Los Angeles Times* has opened old wounds afresh.

"Plunder for Profit." "Looters Rob Old Graves and History" – the headlines leaped out at me with sickening familiarity. But it was only when I read on that I began to realize the full horror of the events at Slack Farm.

The Slack Farm site lies near Uniontown, Kentucky, on land just opposite the confluence of the Ohio and Wabash rivers. The Slack family, which had for many years owned a house and farm at the site, had allowed no digging for artifacts, although on occasion people stole into the corn fields at night to dig illicitly.

Archaeologists had known about the site for years, knew that it was a large, relatively undisturbed Late Mississippian settlement. Judging from surface artifacts, the site dated to sometime between A.D. 1450 and 1650. The farm was of special importance, for it straddled the vital centuries of first European contact with the New World. Cheryl Ann Munson of Indiana University stresses the significance of the farm: she has studied every other large site of this period both up- and downstream. All the other sites have, Munson reports, long since been ravaged by pot hunters. Yet through last fall, Slack Farm had, remarkably, remained nearly intact, a unique archive of information about Late Mississippian lifeways.

But no more. With the death of Mrs. Slack the property changed hands. The tenant farmers on the site did make some attempt to keep people from looting the place. Last fall, however, ten pot hunters from Kentucky, Indiana and Illinois paid the new owner of the land $10,000 for the right to "excavate" the site. They rented a tractor and began bulldozing their way through the village midden to reach graves. They pushed heaps of bones aside, and dug through dwellings and the potsherds, hearths and stone tools associated with them. Along the way, they left detritus of their own – empty pop-top beer and soda cans – scattered on the ground alongside Late Mississippian pottery fragments. Today, Slack Farm looks like a battlefield – a morass of crude shovel holes and gaping trenches. Broken human bones litter the ground, and fractured artifacts crunch under foot.

Two months passed before local residents complained about the digging. Eventually the Kentucky State Police stepped in and arrested the diggers under a state law that prohibits desecrating a venerated object, such as a human grave. The looters pleaded not guilty to the charge – a misdemeanor – and now await trial. But whatever the court decides, the archaeological damage is done – and it is staggering.

No one knows how many graves were ravaged, what artifacts were removed, what fine pots or funerary ornaments vanished onto the greedy antiquities market. No signs of the dwellings, hearths and other structures they disturbed remain. A team of archaeologists from the Kentucky Heritage Council, Indiana University and the University of Kentucky, aided by many volunteers, is now trying to assess the damage and record what is left of the site. They are cleaning up the pot hunters' holes, recording what intact features remain and collecting artifact samples to document and date the settlement more precisely.

The ravagers of Slack Farm had no interest in science or prehistory. They were hunting for artifacts for their personal collections and for money. There is a flourishing market in pipes, pendants, whole pots, and other Mississippian grave furnishings. Under these circumstances, pot hunting can be addictive.

Prehistoric artifact prices are staggering, and rising steeply as the illegal supply – especially from overseas – becomes scarcer. A stone ax can fetch as much as $1,000, a pipe up to $5,000. A looter who finds a rare type of Mississippian pottery bottle or an embossed copper plate can name his price, and expect to get it. The marketplace is so hungry for antiquities of every kind that a lively underground market in very high quality forgeries grows daily.

In some ways, one can hardly blame landowners for cashing in on the potential of such hidden treasures. They lease rights to companies to mine their land for coal. Why not lease rights to pot hunters to dig for artifacts? Both coal and artifacts can be regarded as wealth underfoot. But in the case of the prehistoric past the issues are much more complex.

This point was underlined for me when I showed the newspaper account of the Slack Farm tragedy to some friends at a coffee break. I was horrified by some of the reactions. "So what?" shrugged one coffee shop acquaintance. "It's a free country." He expressed what turned out to be a widely held view: it's up to landowners what they do with their property. In my numbness, I had forgotten that many people see nothing wrong with private landowners ravaging the past for profit – as long as laws are not broken.

We have a strange relationship with the prehistoric past in this country. Most Americans, like my friends, have no direct cultural identification or emotional tie with North American prehistory, with Mesa Verde, Cahokia, or the many other brilliant achievements of the American Indian. As far as most people are concerned, history (and North American archaeology, for that matter) began with Leif Erikson, Christopher Columbus and the Pilgrim Fathers. Anything that predates European contact is considered somewhat irrelevant, and often ignored in school.

So most Americans of non-Indian descent tend to think of prehistoric Indian sites in impersonal, remote ways. Most would protest vigorously at the destruction of an important, privately owned, historic site from pioneer days, or shudder at the very thought of someone looting their neighbor's great-grandmother's grave. But a long-abandoned prehistoric Indian village and the graves of the people who once lived there are a different matter.

It would be naive to think that Slack Farm is an isolated incident. Looting and pot hunting have been endemic in the Southeast since the Depression days of the 1930s, and were rife in the Southwest in the early years of this century. Reports from elsewhere in Kentucky, and from Illinois, Indiana and Ohio, testify to widespread vandalism directed against archaeological sites of every time period over the entire length of the Ohio Valley.

But there is far more to the Slack Farm tragedy than the material destruction of hundreds of prehistoric graves—or of an entire archaeological site. For days after reading the news stories, I was haunted by the staggering scientific loss at Slack Farm.

To understand the dimensions of that loss one must realize that the Mississippian culture was a brilliant efflorescence of late prehistoric life in the Midwest and the South. Cahokia, Moundville and other great centers testify to that culture's extraordinary elaboration of public constructions and brilliant art traditions in ceramics, copper and shell. The first Mississippian communities appeared after A.D. 750, at just about the time when maize farming took hold in eastern North America. Mississippian culture was past its apogee in many regions when Europeans first penetrated the Midwest in the seventeenth century.

Many questions about this ancient society remain unanswered. Most excavations have focused, fairly naturally, on a few town sites and their mounds and spectacular monuments. Very few villages or cemeteries have been investigated—especially with the full apparatus of modern, hi-tech archaeology. The well-preserved deposits at Slack Farm offered one of the few chances for such a painstaking investigation.

As in other Mississippian communities, the people who lived at Slack Farm probably enjoyed close and constant economic, political and social relationships with other villages and hamlets up and down the Ohio. But most of these sites also have been destroyed by looters. Until late last year, Slack Farm had been our best chance to study the dynamics of this Mississippian society.

Some of the fine Mississippian pots from Slack Farm so coveted by collectors are identical to vessels made in Arkansas, far from the Ohio valley. Some of the copper and marine shell ornaments prized by looters attest to even more distant trade—for copper either with the Great Lakes area or the Appalachians, for marine shells with the Atlantic or Gulf coasts.

It may be news to looters, but the fragmentary bones they cast aside are a treasure trove of potential information on Mississippian diet and disease, of vital genetic data about the biological relationships between prehistoric Americans, of evidence on ancient warfare. We now have the scientific techniques to probe such questions. Unfortunately, most of the vital clues for doing so vanished when the site was destroyed.

Slack Farm straddles the vital centuries of European contact with American Indians. We know this because glass beads, brass tinklers and other European artifacts have come from the surface of the ravaged settlement. These finds testify to some

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Timelines

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form of indirect, or perhaps even direct, contact between the Slack Farm people and early European traders and explorers. Studying such imports requires a detailed knowledge of their precise archaeological context. The looted holes at Slack Farm remind us that we may never understand the true nature of these early contacts.

Christopher Columbus's quincentennial approaches fast, yet we still know little about the complex relationships between Europeans and Native Americans five centuries ago. What changes in culture resulted from European contact? Did exotic diseases decimate midwestern populations? Were the Late Mississippians in the Ohio Valley the ancestors of one of the historic tribes of the Midwest and Southeast? What goods were traded between whites and Indians, and how did this new trade affect relationships between indigenous societies? The looted burials and village deposits at Slack Farm might have helped find some of the answers to these questions. They cannot help us now.

When historians look back at the history of archaeology in the late twentieth century, they will be struck by a tragic irony. The seventies and eighties were the decades when archaeologists finally developed the scientific technology to attack fundamental questions about the past. Yet the same scientists were powerless to stem the tidal wave of destruction that swept away the very data they could now study to its full potential.

The only bright side of the Slack Farm affair is the public outcry aroused locally by the looting. This protest led to new state legislation in Kentucky, which now makes it a felony to desecrate a human grave, regardless of the race or antiquity of the person buried. Yet, in Indiana similar legislative efforts failed. In surrounding states, no one is tackling the legal, ethical and archaeological problem of site vandalism.

It's not making front page headlines, but looting on the scale of Slack Farm is commonplace in nearly every state—from the Bering Strait to the U.S. Virgin Islands, especially on private lands. The fact is that we and our friends are not making enough noise about this insidious scandal society tolerates in its midst. No one else is going to do it for us, so we had better raise our voices very loudly before it is too late.

In a way I feel like Nero, blithely fiddling while Rome burns. Only this time it is not Rome that is at stake, but the priceless and finite past. The Slack Farm affair has made me wonder for the first time if, perhaps, it is already too late. ☐

My thanks to Cheryl Ann Munson of Indiana University, and Mary Lucas Powell of the University of Kentucky, for their assistance.

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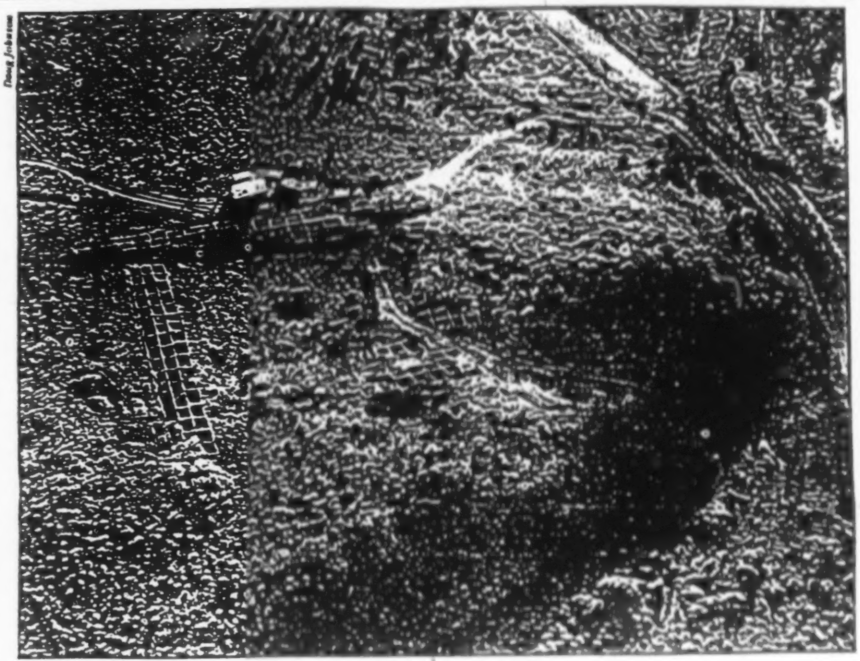

Doug Johnson

Fourmile Ruin, Arizona

At a vast private dig:

Backhoe roots around in Indian graves

by Susan Kroupa

The backhoe digs through graveyards, eight hours a day, five days a week, sorting through dirt and human skeletons in search of pottery and artifacts. When the graveyards are finished, the backhoe moves to the rooms of a pueblo, more than 600 of them.

After nearly a century of neglect and vandalism, an area called Fourmile Ruin near Taylor, Ariz., is being excavated, not in a search for information about its original inhabitants but for its valuable pottery.

In its heyday, between A.D. 1300 and the mid-1400s, the Fourmile pueblo was a major hub in the trade routes among the Salado Indians to the south, the Hopis to the north and the Zunis to the east. The modern-day Hopis and Zunis both claim it as an ancestral site.

But now it has become the center of a complex debate involving the treatment of archaeological sites and artifacts, the rights of property owners and the sanctity of burial grounds.

Some archaeologists would like the site to be stabilized and either preserved or properly excavated. The landowners say they are willing to share information with the archaeologists but insist on controlling the excavation and on their rights to the artifacts. The Hopis would like the area to remain undisturbed.

Although private excavation or removal of artifacts on public lands is forbidden, it is legal to excavate ruins on private land with the permission of the owner. At Fourmile, the owners say, the site was purchased solely to obtain the artifacts.

The digging at Fourmile has revealed a wealth of several types of pottery, including Yellow Ware and multicolored White Mountain Red Ware.

Yellow Ware pottery is not common outside the Hopi Reservation and other nearby federally protected lands. At Fourmile, the owners estimate they found more than 50 Yellow Ware pots, and they still have about three-quarters of the ruin to excavate.

Vince Wass, one of the four owners of Fourmile, disputes a theory by some archaeologists that pottery from legal excavations like that at Fourmile feeds the illegal market, primarily because little out of Fourmile has yet been sold.

"What we've got, we've kept," Wass said about the pottery from Fourmile.

"We let go of a little of it when the debt for the property was tremendous, but we have sold under $10,000 worth of pottery."

Wass also said values of pottery on the open market, often placed at $1,000 to $2,000 for a reconstructed pot and $10,000 to $15,000 for an unbroken one, have been greatly exaggerated.

"Several hundred dollars is the most we have received for any pot," he said.

John Scott Wood, an archaeologist for the Tonto National Forest in Arizona, says such evaluation is at the bottom end of the scale.

"This type of pottery is popular and gets top dollar," said Wood, who recalled retrieving an illegal Hopi pot that sold for $17,000 in New York.

"And that was a pot where the reconstruction was really rather poor," he added.

To the Hopis, excavation of what they feel is an ancestral site is nothing more than grave robbing.

"It's a sad sight to see what's happening at Fourmile," said Eric Polingyouma, an analyst for the Cultural Preservation Office on the Hopi Reservation.

"It's totally wrong. If we went into your graveyards and dug them up, you would be upset. But when the white man imposes laws upon us, there is nothing we can do."

Many archaeologists worry that irreplaceable information is being lost with the digging at Fourmile.

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Pot sherds found at Fourmile Ruin

Backhoe...

(Continued from page 1)

"We could get a good deal of information out of Fourmile, even though it has been extensively vandalized over the years," said Richard Lange, an archaeologist with the Arizona State Museum and associate director of the Homolovi Research Program.

However, Watts, one of the four owners, says it seems that the concern of archaeologists is a little belated.

"They haven't taken care of it for 20 to 30 years," Watts said, speaking of the extensive digging by local pothunters.

"When we first walked over the surface of Fourmile last June or July, it looked like World War II Dresden. There were potholes all over the place."

The owners declined to reveal how much they paid for the property. The identity of the previous owner was not available.

Watts stated that even after fencing the property and having a watchman live on the site, keeping pothunters out has been a constant problem.

"Archaeologists confuse me," Watts said.

"One year ago, nobody was protecting the site and the archaeologists saw nothing of value on it. Now that we're doing something with it, it's suddenly the most valuable and virgin site in all of Arizona."

Lange admitted that the site, known to archaeologists for years and which was partially excavated in 1904, had been overlooked precisely because of the devastation by pothunters and previous owners.

"An awful lot of the professional community assumed that there was nothing left at Fourmile," he said.

Watts maintained that he and the three other owners, Brad Watts, Mark Brady and Troy Gilliowater, bought Fourmile in order to save it from bulldozing by another prospective buyer.

Fourmile is one of several archaeological sites that they have purchased in the state for the purpose of excavation. Watts said he has repeatedly offered to work with archaeologists while excavating the sites, but that for the most part, the archaeologists' demands have been unreasonable.

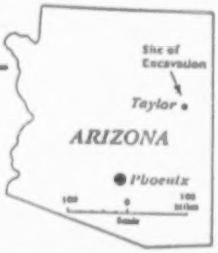
"They're sitting back like a bunch of crybabies," Watts said.

"If they can't have it just the way they want it, they cry. If they were really interested in science instead of politics, they'd be out there right now helping us."

Watts said an exception is Shirley Powell, an associate professor of anthropology from Northern Arizona University.

"We are working with Powell to field a school of graduate students to give us professional assistance in preserving the site," Watts said.

Powell agreed that the owners of Fourmile have "consistently asked for professional archaeological advice and have consistently said that they would slow the work and allow professional archaeologists on the site."



"When we first walked over the surface of Fourmile, it looked like World War II Dresden."

Excavating at Fourmile Ruin

Some archaeologists have raised concerns about the ownership of the excavation site. Two of the four owners of Fourmile, Vince and Brad Watts, are also members of the Federal Land Exchange, a private company that helps the federal government procure private lands adjacent to or surrounded by national forests.

Although the excavation at Fourmile is solely a private undertaking not involving the Federal Land Exchange, which has earned the admiration and commendation of environmental groups for helping the federal government obtain valuable land, some archaeologists are disturbed that members of the company would be involved.

"It is unfortunate that people who seem to have an involvement with the Federal Land Exchange are also out there making it a business to buy and sell archaeological sites," Lange said.

Watts denied any conflict of interest between his position with the Federal Land Exchange and the excavation at Fourmile.

"We're not breaking any law," he said. "We're honest people doing an honest business.

"They're disgruntled that people who don't have seven or eight years of archaeology are doing a site. It's job security for them to keep sole rights to excavation to themselves."

But to Lange, the concern of archaeologists is not to be exclusive. It is to preserve, in the most scientific way, an irreplaceable heritage.

"Whether we're talking about monuments, paintings or artifacts, we need to examine the responsibility an owner has to the pieces in his or her hands," Lange said.

Other archaeologists defended the general policy of refusing to work with those excavating for private gain.

"It makes us very uneasy," said Wood. "As archaeologists for the national forests we are not supposed to have any dealings with people involved in private excavation.

"Sometimes we deal with amateur societies but never with people in it for profit," Wood added.

"These are national treasures, matters of the past that concern us all," Lange said.

"It ought to be done right. If you have to have surgery, you don't go to a car mechanic rather than a surgeon."

But to Vince Watts, the issue of excavating at Fourmile was decided long ago.

"If we weren't excavating Fourmile," he said, "the general public would be – one shovelful at a time."

Doug Johnson, president of the Mogollon Chapter of the Arizona Archaeological Society and an instructor of archaeology at Northland Pioneer College, sees the sites on private lands as being in the greatest danger.

"We are desperately in need of laws that will protect all unmarked cemeteries and burial grounds," Johnson said. "At least 12 other states, including California and Idaho, have such laws."

Aimed primarily at pothunters, the laws generally prohibit the intentional disturbance of unmarked graves or skeletal remains by unauthorized persons. While Johnson does not see this as the total solution to the grave desecration and site destruction in the Southwest, "where professional grave looters run rampant, it is an important and necessary step."

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Susan Krupa is a freelance writer in Show Low, Arizona.

Senator **Bingaman**. Thank you very much.

Senator Domenici, did you have any questions of this witness?

Senator **Domenici**. I was going to ask your position on 1985, but you stated that, even though not in your statement. Do you think we ought to pass that?

Ms. **Neumann**. I think it would be a worthy addition to the law and something that is needed, yes.

Senator **Domenici**. I think we have got enough evidence on the protecting and prosecution, so I do not believe we have to ask any more questions. I was going to, but I thank you very much for all your help. You and all those associated with you have been extremely helpful.

Ms. **Neumann**. We have appreciated your support.

Senator **Bingaman**. I have just one question here. There is sometimes reference to casual looters. Maybe you could just elaborate for a moment on what is meant by that as you understand it, how you think we can effectively address that problem.

Ms. **Neumann**. Well, too often people think of the looting only in terms of the bulldozers and the pots and very valuable artifacts, and that is a very bit and serious problem, and it is growing, the collections that are being sold. They go off to Europe and Japan and pots can be sold for $50,000, so that is a major problem, and the trafficking needs to be dealt with.

However, there is also a problem with the casual looter, people who love these things and pick up artifacts or dig for them, often not because they want to be destructive. They do not understand that it is the site that is important intact and not simply the artifacts themselves.

What has happened recently is there are new programs; they call it interactive archeology. There is one in Utah, and there was reference in Congressman Gejdenson's report. There are other projects, and I have some articles about work that has been done. For example, in the Superior National Forest in Minnesota show ways that people can be involved and help prevent this sort of casual looting. The casual looting is very destructive.

One other thing I would like to mention, I had a note to myself that I wanted to draw your attention to, and that has to do with the Justice Department. I was very pleased with the questions that were asked. The Society for American Archeology is currently beginning a year-long project to deal with the problems of looting, and I have several copies of our project proposal. I did not have enough to give you 50 for your entire need for copies for statements, but enough here that perhaps you and your staff can have a few for your files.

What we have been doing is going around to the various federal agencies to get their involvement in this project, and we are saying here is the private sector, the professional society that will take the lead, but we want to work with the federal agencies, and they have been wonderful. We have been very pleased with the Park Service, the Forest Service, the BLM. All these agencies have been terrific.

We went over to the Justice Department, however. We knew of Senator Domenici's very fine effort in getting the million dollars into their budget, so we went over and met with the Deputy Assistant Attorney General for Lands and Resources, and we said. "Well, gee, it is wonderful you have this million dollars, and we would love for you to spend a little bit of it to help our project here."

And he said, "What million dollars?"

And I said, "Well, here is the committee report language from last year's appropriations, and there it clearly says here is a million dollars to go to the Justice Department to combat looting."

He did not know anything about it. He promised to look into it. He was very nice. He was very concerned, caring, but he did not know anything about it. He suggested, however, that we talk to the criminal division. That is where the money probably went.

So, we went and talked to Mr. Dan Fromstein in the criminal division who does supposedly handle the looting. He said he knew nothing about the million dollars, and not only that, they have never had one case referred to the criminal division from the Departments of Interior or Agriculture to date on the looting issue, and he basically sits there with nothing to do on this issue.

So, I am delighted you are interested in the Justice Department, because I think they have a tremendous role to play, and the U.S. Attorneys are out there doing it alone without any backup here in Washington, and they desperately need it.

Senator BINGAMAN. Thank you very much. I appreciate the testimony. Let me thank Senator Domenici for his co-sponsorship of the Aztec, Salinas and Warm Springs bills. I am co-sponsoring the legislation he is proposing as well.

Is there anything more that you had that we should add, Senator Domenici?

Senator DOMENICI. Just that I am pleased to be a co-sponsor of those you introduced, and I thank you for your co-sponsorship and help on the ones that I have introduced. I am hopeful we can move expeditiously and pass most of these this year. Is that your hope?

Senator BINGAMAN. I sure hope we can. That is our expectation. Thank you very much.

[Whereupon, at 3:11 p.m. the hearing was adjourned.]

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